

AN ACT concerning revenue.

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

ARTICLE 5. AIRCRAFT ENGINES

Section 5-5. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5)

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

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption

under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under paragraph (18).

(7) Farm chemicals.

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

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

(10) A motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax

Act.

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

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors,

software, global positioning and mapping systems, and other such equipment.

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

(12) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of

that aircraft.

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

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

(16) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and

reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

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

paragraph (18) includes production related tangible personal property, as defined in Section 3-50, purchased on or after July 1, 2019. The exemption provided by this paragraph (18) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. Beginning on July 1, 2017, the exemption provided by this paragraph (18) includes, but is not limited to, graphic arts machinery and equipment, as defined in paragraph (6) of this Section.

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

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

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



Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

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

have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

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

(24) Beginning with taxable years ending on or after

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

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

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-90.

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

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

does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who

resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(31) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee

for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.



(35) Beginning January 1, 2010 and continuing through December 31, 2029 ~~December 31, 2024~~, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft. However, until January 1, 2024, this exemption ~~, but~~ excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films.

Beginning January 1, 2010 and continuing through December 31, 2023, this ~~This~~ exemption applies only to the use of qualifying tangible personal property by persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. From January 1, 2024 through December 31, 2029, this exemption applies only to the use of qualifying tangible

personal property by: (A) persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations; and (B) persons who engage in the modification, replacement, repair, and maintenance of aircraft engines or power plants without regard to whether or not those persons meet the qualifications of item (A).

The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (35) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (35) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(36) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but

only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-90.

(37) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(38) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 3-90.

(39) Tangible personal property purchased by a purchaser who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-90.

(40) Qualified tangible personal property used in the construction or operation of a data center that has been

granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 been in effect may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (40) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (40):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency

generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (40) is exempt from the provisions of Section 3-90.

(41) Beginning July 1, 2022, breast pumps, breast pump

collection and storage supplies, and breast pump kits. This item (41) is exempt from the provisions of Section 3-90. As used in this item (41):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice

packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(42) ~~(41)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (42) ~~(41)~~ is exempt from the provisions of Section 3-90.

(Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article 70, Section 70-5, eff. 4-19-22; 102-700, Article 75, Section 75-5, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-1-22.)

Section 5-10. The Service Use Tax Act is amended by

changing Section 3-5 as follows:

(35 ILCS 110/3-5)

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

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the



effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under Section 2 of this Act.

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

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or

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

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

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the

computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-75.

(8) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a

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

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

(12) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but

excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

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

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(15) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or

longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(16) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not

qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

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

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in

the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-75.

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



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

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines

and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) Beginning August 23, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(24) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption

identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other

nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(27) Beginning January 1, 2010 and continuing through December 31, 2029 ~~December 31, 2024~~, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in

the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft. However, until January 1, 2024, this exemption ~~, but~~ excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films.

Beginning January 1, 2010 and continuing through December 31, 2023, this ~~This~~ exemption applies only to the use of qualifying tangible personal property transferred incident to the modification, refurbishment, completion, replacement, repair, or maintenance of aircraft by persons who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. From January 1, 2024 through December 31, 2029, this exemption applies only to the use of qualifying tangible personal property by: (A) persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct

operations in accordance with Part 145 of the Federal Aviation Regulations; and (B) persons who engage in the modification, replacement, repair, and maintenance of aircraft engines or power plants without regard to whether or not those persons meet the qualifications of item (A).

The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (27) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (27) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(28) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt

instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-75.

(29) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(30) Tangible personal property transferred to a purchaser who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-75.

(31) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 ~~this amendatory Act of the 101st General Assembly~~ been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have

qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (31) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (31):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and



replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (31) is exempt from the provisions of Section 3-75.

(32) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (32) is exempt from the provisions of Section 3-75. As used in this item (32):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means

items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the

breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(33) ~~(32)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (33) ~~(32)~~ is exempt from the provisions of Section 3-75.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article 70, Section 70-10, eff. 4-19-22; 102-700, Article 75, Section 75-10, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-3-22.)

Section 5-15. The Service Occupation Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 115/3-5)

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

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

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

(3) Personal property purchased by any not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or

purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under Section 2 of this Act.

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

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender

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

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

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

(8) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent

domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi)

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

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

(12) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(13) Beginning January 1, 1992 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human



use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

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

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(16) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a

hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

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

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

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

purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-55.

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

individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This

paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002 and through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this

State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(28) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of

constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-55.

(29) Beginning January 1, 2010 and continuing through December 31, 2029 ~~December 31, 2024~~, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft. However, until January 1, 2024, this exemption  ~~, but~~ excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to,

adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films.

Beginning January 1, 2010 and continuing through December 31, 2023, this ~~This~~ exemption applies only to the transfer of qualifying tangible personal property incident to the modification, refurbishment, completion, replacement, repair, or maintenance of an aircraft by persons who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. From January 1, 2024 through December 31, 2029, this exemption applies only to the use of qualifying tangible personal property by: (A) persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations; and (B) persons who engage in the modification, replacement, repair, and maintenance of aircraft engines or power plants without regard to whether or not those persons meet the qualifications of item (A).



The changes made to this paragraph (29) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (29) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(30) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(31) Tangible personal property transferred to a purchaser who is exempt from tax by operation of federal law. This paragraph is exempt from the provisions of Section 3-55.

(32) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 ~~this amendatory Act of the 101st General Assembly~~ been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement,

or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (32) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (32):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures;

and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (32) is exempt from the provisions of Section 3-55.

(33) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (33) is exempt from the provisions of Section 3-55. As used in this item (33):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the

time of sale.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no

more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(34) ~~(33)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (34) ~~(33)~~ is exempt from the provisions of Section 3-55.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article 70, Section 70-15, eff. 4-19-22; 102-700, Article 75, Section 75-15, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-9-22.)

Section 5-20. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5)

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

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production

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

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

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

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the

manufacturing and assembling machinery and equipment exemption under paragraph (14).

(5) A motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

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

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

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

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



On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

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

(12) (Blank).

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier

by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (14) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. Beginning on July 1, 2017, the exemption

provided by this paragraph (14) includes, but is not limited to, graphic arts machinery and equipment, as defined in paragraph (4) of this Section.

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

(16) Tangible personal property sold to a purchaser if the purchaser is exempt from use tax by operation of federal law. This paragraph is exempt from the provisions of Section 2-70.

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

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the

government of any foreign country, and bullion.

(19) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

(21) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date

of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(22) Until June 30, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the

transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is

a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

- (1) the aircraft leaves this State within 15 days



after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR ~~C.F.R.~~ 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft

registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

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

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of

one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

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

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

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

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

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 2-70.

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

vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June

30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a

hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the

Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning January 1, 2010 and continuing through December 31, 2029 ~~December 31, 2024~~, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft. However, until January 1, 2024,



this exemption ~~, but~~ excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films.

Beginning January 1, 2010 and continuing through December 31, 2023, this ~~This~~ exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. From January 1, 2024 through December 31, 2029, this exemption applies only to the use of qualifying tangible personal property by: (A) persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air

Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations; and (B) persons who engage in the modification, replacement, repair, and maintenance of aircraft engines or power plants without regard to whether or not those persons meet the qualifications of item (A).

The changes made to this paragraph (40) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (40) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(41) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality

at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 2-70.

(42) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(43) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(44) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of

exemption prior to January 1, 2020 had Public Act 101-31 ~~this amendatory Act of the 101st General Assembly~~ been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (44) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (44):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure;

raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated into the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (44) is exempt from the provisions of Section 2-70.

(45) Beginning January 1, 2020 and through December 31, 2020, sales of tangible personal property made by a marketplace seller over a marketplace for which tax is due

under this Act but for which use tax has been collected and remitted to the Department by a marketplace facilitator under Section 2d of the Use Tax Act are exempt from tax under this Act. A marketplace seller claiming this exemption shall maintain books and records demonstrating that the use tax on such sales has been collected and remitted by a marketplace facilitator. Marketplace sellers that have properly remitted tax under this Act on such sales may file a claim for credit as provided in Section 6 of this Act. No claim is allowed, however, for such taxes for which a credit or refund has been issued to the marketplace facilitator under the Use Tax Act, or for which the marketplace facilitator has filed a claim for credit or refund under the Use Tax Act.

(46) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (46) is exempt from the provisions of Section 2-70. As used in this item (46):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means

items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the

breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(47) ~~(46)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (47) ~~(46)~~ is exempt from the provisions of Section 2-70.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-634, eff. 8-27-21; 102-700, Article 70, Section 70-20, eff. 4-19-22; 102-700, Article 75, Section 75-20, eff. 4-19-22; 102-813, eff. 5-13-22; 102-1026, eff. 5-27-22; revised 8-15-22.)

#### ARTICLE 10. ETHANOL BLENDED FUEL

Section 10-5. The Use Tax Act is amended by changing Sections 3-10, 3-40, and 3-44 and by adding Section 3-44.3 as follows:

(35 ILCS 105/3-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of either the selling price or the fair market value, if any, of the tangible personal property. In all cases where property functionally used or consumed is the same as the property that



was purchased at retail, then the tax is imposed on the selling price of the property. In all cases where property functionally used or consumed is a by-product or waste product that has been refined, manufactured, or produced from property purchased at retail, then the tax is imposed on the lower of the fair market value, if any, of the specific property so used in this State or on the selling price of the property purchased at retail. For purposes of this Section "fair market value" means the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. The fair market value shall be established by Illinois sales by the taxpayer of the same property as that functionally used or consumed, or if there are no such sales by the taxpayer, then comparable sales or purchases of property of like kind and character in Illinois.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

Beginning on August 6, 2010 through August 15, 2010, and beginning again on August 5, 2022 through August 14, 2022, with respect to sales tax holiday items as defined in Section 3-6 of this Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, the tax imposed by this Act applies to (i) 70% of the proceeds of sales made on or after

January 1, 1990, and before July 1, 2003, (ii) 80% of the proceeds of sales made on or after July 1, 2003 and on or before July 1, 2017, ~~and~~ (iii) 100% of the proceeds of sales made after July 1, 2017 and prior to January 1, 2024, (iv) 90% of the proceeds of sales made on or after January 1, 2024 and on or before December 31, 2028, and (v) 100% of the proceeds of sales made after December 31, 2028 ~~thereafter~~. If, at any time, however, the tax under this Act on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to mid-range ethanol blends, the tax imposed by this Act applies to (i) 80% of the proceeds of sales made on or after January 1, 2024 and on or before December 31, 2028 and (ii) 100% of the proceeds of sales made thereafter. If, at any time, however, the tax under this Act on sales of mid-range ethanol blends is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of mid-range ethanol blends made during that time.

With respect to majority blended ethanol fuel, the tax imposed by this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2028 ~~December 31, 2023~~ but applies to 100% of the proceeds of sales made thereafter.

With respect to biodiesel blends with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies

to (i) 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of sales made after December 31, 2018 and before January 1, 2024. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1. If, at any time, however, the tax under this Act on sales of biodiesel blends with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to biodiesel and biodiesel blends with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2023. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1.

Until July 1, 2022 and beginning again on July 1, 2023, with respect to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption), the tax is imposed at the rate of 1%. Beginning on July 1, 2022 and until July 1, 2023, with respect

to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption), the tax is imposed at the rate of 0%.

With respect to prescription and nonprescription medicines, drugs, medical appliances, products classified as Class III medical devices by the United States Food and Drug Administration that are used for cancer treatment pursuant to a prescription, as well as any accessories and components related to those devices, modifications to a motor vehicle for the purpose of rendering it usable by a person with a disability, and insulin, blood sugar testing materials, syringes, and needles used by human diabetics, the tax is imposed at the rate of 1%. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including, but not limited to, soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does ~~do~~ not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains

flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 CFR ~~C.F.R. §~~ 201.66. The "over-the-counter-drug" label includes:

(A) a ~~A~~ "Drug Facts" panel; or

(B) a ~~A~~ statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

Beginning on January 1, 2014 (the effective date of Public Act 98-122) ~~this amendatory Act of the 98th General Assembly~~, "prescription and nonprescription medicines and drugs" includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Program Act.

As used in this Section, "adult use cannabis" means cannabis subject to tax under the Cannabis Cultivation

Privilege Tax Law and the Cannabis Purchaser Excise Tax Law and does not include cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act.

If the property that is purchased at retail from a retailer is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the "selling price" on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.

(Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19; 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-5, eff. 4-19-22; 102-700, Article 60, Section 60-15, eff. 4-19-22; 102-700, Article 65, Section 65-5, eff. 4-19-22; revised 5-27-22.)

(35 ILCS 105/3-40) (from Ch. 120, par. 439.3-40)

Sec. 3-40. Gasohol. As used in this Act, "gasohol" means motor fuel that is a blend of denatured ethanol and gasoline that contains no more than 1.25% water by weight. Prior to January 1, 2024, the ~~The~~ blend must contain 90% gasoline and 10% denatured ethanol. On and after January 1, 2024, the blend must contain 85% gasoline and 15% denatured ethanol. A maximum of one percent error factor in the amount of denatured ethanol used in the blend is allowable to compensate for blending equipment variations. Any person who knowingly sells or

represents as gasohol any fuel that does not qualify as gasohol under this Act is guilty of a business offense and shall be fined not more than \$100 for each day that the sale or representation takes place after notification from the Department of Agriculture that the fuel in question does not qualify as gasohol.

(Source: P.A. 93-724, eff. 7-13-04.)

(35 ILCS 105/3-44)

Sec. 3-44. Majority blended ethanol fuel. Prior to January 1, 2024, "majority ~~"Majority~~ blended ethanol fuel" means motor fuel that contains not less than 70% and no more than 90% denatured ethanol and no less than 10% and no more than 30% gasoline. On and after January 1, 2024, "majority blended ethanol fuel" means motor fuel that is capable of being used in the operation of flexible fuel vehicles and contains at least 51% and not more than 83% ethanol, by volume, as specified in ASTM Standard D5798-11, and no less than 17% and no more than 49% gasoline.

(Source: P.A. 93-17, eff. 6-11-03.)

(35 ILCS 105/3-44.3 new)

Sec. 3-44.3. Mid-range ethanol blend. "Mid-range ethanol blend" means a blend of gasoline and denatured ethanol that contains at least 20% but less than 51% denatured ethanol.



Section 10-10. The Service Use Tax Act is amended by changing Section 3-10 as follows:

(35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the selling price of tangible personal property transferred as an incident to the sale of service, but, for the purpose of computing this tax, in no event shall the selling price be less than the cost price of the property to the serviceman.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act applies to (i) 70% of the selling price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before July 1, 2017, ~~and~~ (iii) 100% of the selling price of property transferred as an incident to the sale of service after July 1, 2017 and before January 1, 2024, (iv) 90% of the selling price of property transferred as an incident to the sale of service on or after January 1, 2024 and on or before December 31, 2028, and (v) 100% of the selling price of property transferred as an

incident to the sale of service after December 31, 2028  
~~thereafter~~. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to mid-range ethanol blends, as defined in Section 3-44.3 of the Use Tax Act, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after January 1, 2024 and on or before December 31, 2028 and (ii) 100% of the selling price of property transferred as an incident to the sale of service after December 31, 2028. If, at any time, however, the tax under this Act on sales of mid-range ethanol blends is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the selling price of mid-range ethanol blends transferred as an incident to the sale of service during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2028 ~~December 31, 2023~~ but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling

price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of the selling price after December 31, 2018 and before January 1, 2024. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2023. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an

incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred as an incident to the sale of those services.

Until July 1, 2022 and beginning again on July 1, 2023, the tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Assisted Living and Shared Housing Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care Act of 1969, or an entity that holds a permit issued pursuant to the Life Care Facilities Act. Until July 1, 2022 and beginning again on July 1, 2023, the tax shall also be imposed at the rate of 1% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph).

Beginning on July 1, 2022 and until July 1, 2023, the tax shall be imposed at the rate of 0% on food prepared for

immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Assisted Living and Shared Housing Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care Act of 1969, or an entity that holds a permit issued pursuant to the Life Care Facilities Act. Beginning on July 1, 2022 and until July 1, 2023, the tax shall also be imposed at the rate of 0% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph).

The tax shall also be imposed at the rate of 1% on prescription and nonprescription medicines, drugs, medical appliances, products classified as Class III medical devices by the United States Food and Drug Administration that are used for cancer treatment pursuant to a prescription, as well as any accessories and components related to those devices, modifications to a motor vehicle for the purpose of rendering it usable by a person with a disability, and insulin, blood sugar testing materials, syringes, and needles used by human diabetics. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished,

ready-to-use, non-alcoholic drink, whether carbonated or not, including, but not limited to, soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does ~~do~~ not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food

products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 CFR ~~C.F.R.~~ § 201.66. The "over-the-counter-drug" label includes:

- (A) a ~~A~~ "Drug Facts" panel; or
- (B) a ~~A~~ statement of the "active ingredient(s)" with a

list of those ingredients contained in the compound, substance or preparation.

Beginning on January 1, 2014 (the effective date of Public Act 98-122), "prescription and nonprescription medicines and drugs" includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Program Act.

As used in this Section, "adult use cannabis" means cannabis subject to tax under the Cannabis Cultivation Privilege Tax Law and the Cannabis Purchaser Excise Tax Law and does not include cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act.

If the property that is acquired from a serviceman is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the "selling price" on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.

(Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19; 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article 20, Section 20-10, eff. 4-19-22; 102-700, Article 60, Section 60-20, eff. 4-19-22; revised 6-1-22.)

Section 10-15. The Service Occupation Tax Act is amended by changing Section 3-10 as follows:



(35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the "selling price", as defined in Section 2 of the Service Use Tax Act, of the tangible personal property. For the purpose of computing this tax, in no event shall the "selling price" be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item of tangible personal property transferred as an incident of a sale of service may be shown as a distinct and separate item on the serviceman's billing to the service customer. If the selling price is not so shown, the selling price of the tangible personal property is deemed to be 50% of the serviceman's entire billing to the service customer. When, however, a serviceman contracts to design, develop, and produce special order machinery or equipment, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the completion of the contract.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act shall apply to (i) 70% of the cost

price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before July 1, 2017, ~~and~~ (iii) 100% of the selling price of property transferred as an incident to the sale of service after July 1, 2017 and prior to January 1, 2024, (iv) 90% of the selling price of property transferred as an incident to the sale of service on or after January 1, 2024 and on or before December 31, 2028, and (v) 100% of the selling price of property transferred as an incident to the sale of service after December 31, 2028 ~~cost price thereafter~~. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to mid-range ethanol blends, as defined in Section 3-44.3 of the Use Tax Act, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after January 1, 2024 and on or before December 31, 2028 and (ii) 100% of the selling price of property transferred as an incident to the sale of service after December 31, 2028. If, at any time, however, the tax under this Act on sales of mid-range ethanol blends is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the selling price of

mid-range ethanol blends transferred as an incident to the sale of service during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2028 ~~December 31, 2023~~ but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of the selling price after December 31, 2018 and before January 1, 2024. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more

than 10% but no more than 99% biodiesel material, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2023. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the sale of those services.

Until July 1, 2022 and beginning again on July 1, 2023, the tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Use Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Assisted Living and Shared Housing Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care

Act of 1969, or an entity that holds a permit issued pursuant to the Life Care Facilities Act. Until July 1, 2022 and beginning again on July 1, 2023, the tax shall also be imposed at the rate of 1% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph).

Beginning on July 1, 2022 and until July 1, 2023, the tax shall be imposed at the rate of 0% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Use Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Assisted Living and Shared Housing Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care Act of 1969, or an entity that holds a permit issued pursuant to the Life Care Facilities Act. Beginning July 1, 2022 and until July 1, 2023, the tax shall also be imposed at the rate of 0% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph).

The tax shall also be imposed at the rate of 1% on

prescription and nonprescription medicines, drugs, medical appliances, products classified as Class III medical devices by the United States Food and Drug Administration that are used for cancer treatment pursuant to a prescription, as well as any accessories and components related to those devices, modifications to a motor vehicle for the purpose of rendering it usable by a person with a disability, and insulin, blood sugar testing materials, syringes, and needles used by human diabetics. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including, but not limited to, soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does ~~do~~ not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions,

shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 CFR ~~C.F.R.~~ § 201.66. The "over-the-counter-drug" label includes:

(A) a ~~A~~ "Drug Facts" panel; or

(B) a ~~A~~ statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

Beginning on January 1, 2014 (the effective date of Public Act 98-122), "prescription and nonprescription medicines and drugs" includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Program Act.

As used in this Section, "adult use cannabis" means cannabis subject to tax under the Cannabis Cultivation Privilege Tax Law and the Cannabis Purchaser Excise Tax Law and does not include cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act.

(Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19; 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article 20, Section 20-15, eff. 4-19-22; 102-700, Article 60, Section 60-25, eff. 4-19-22; revised 6-1-22.)



Section 10-20. The Retailers' Occupation Tax Act is amended by changing Sections 2-10 and 2d as follows:

(35 ILCS 120/2-10)

Sec. 2-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of gross receipts from sales of tangible personal property made in the course of business.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

Beginning on August 6, 2010 through August 15, 2010, and beginning again on August 5, 2022 through August 14, 2022, with respect to sales tax holiday items as defined in Section 2-8 of this Act, the tax is imposed at the rate of 1.25%.

Within 14 days after July 1, 2000 (the effective date of Public Act 91-872) ~~this amendatory Act of the 91st General Assembly~~, each retailer of motor fuel and gasohol shall cause the following notice to be posted in a prominently visible place on each retail dispensing device that is used to dispense motor fuel or gasohol in the State of Illinois: "As of July 1, 2000, the State of Illinois has eliminated the State's share of sales tax on motor fuel and gasohol through December 31, 2000. The price on this pump should reflect the

elimination of the tax." The notice shall be printed in bold print on a sign that is no smaller than 4 inches by 8 inches. The sign shall be clearly visible to customers. Any retailer who fails to post or maintain a required sign through December 31, 2000 is guilty of a petty offense for which the fine shall be \$500 per day per each retail premises where a violation occurs.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act applies to (i) 70% of the proceeds of sales made on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the proceeds of sales made on or after July 1, 2003 and on or before July 1, 2017, ~~and~~ (iii) 100% of the proceeds of sales made after July 1, 2017 and prior to January 1, 2024, (iv) 90% of the proceeds of sales made on or after January 1, 2024 and on or before December 31, 2028, and (v) 100% of the proceeds of sales made after December 31, 2028 thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to mid-range ethanol blends, as defined in Section 3-44.3 of the Use Tax Act, the tax imposed by this Act applies to (i) 80% of the proceeds of sales made on or after January 1, 2024 and on or before December 31, 2028 and (ii) 100% of the proceeds of sales made after December 31, 2028. If, at any time, however, the tax under this Act on sales of

mid-range ethanol blends is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of mid-range ethanol blends made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2028 ~~December 31, 2023~~ but applies to 100% of the proceeds of sales made thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of sales made after December 31, 2018 and before January 1, 2024. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by

this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2023. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act.

Until July 1, 2022 and beginning again on July 1, 2023, with respect to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption), the tax is imposed at the rate of 1%. Beginning July 1, 2022 and until July 1, 2023, with respect to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption), the tax is imposed at the rate of 0%.

With respect to prescription and nonprescription medicines, drugs, medical appliances, products classified as Class III medical devices by the United States Food and Drug Administration that are used for cancer treatment pursuant to a prescription, as well as any accessories and components related to those devices, modifications to a motor vehicle for the purpose of rendering it usable by a person with a disability, and insulin, blood sugar testing materials, syringes, and needles used by human diabetics, the tax is

imposed at the rate of 1%. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including, but not limited to, soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does ~~do~~ not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed

off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 CFR ~~C.F.R.~~ § 201.66. The "over-the-counter-drug" label includes:

(A) a ~~A~~ "Drug Facts" panel; or

(B) a ~~A~~ statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

Beginning on January 1, 2014 (the effective date of Public Act 98-122) ~~this amendatory Act of the 98th General Assembly,~~ "prescription and nonprescription medicines and drugs" includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Program Act.

As used in this Section, "adult use cannabis" means cannabis subject to tax under the Cannabis Cultivation Privilege Tax Law and the Cannabis Purchaser Excise Tax Law and does not include cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act.

(Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19; 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-20, eff. 4-19-22; 102-700, Article 60, Section 60-30, eff. 4-19-22; 102-700, Article 65, Section 65-10, eff. 4-19-22; revised 6-1-22.)

(35 ILCS 120/2d) (from Ch. 120, par. 441d)

Sec. 2d. Tax prepayment by motor fuel retailer.

(a) Any person engaged in the business of selling motor fuel at retail, as defined in the Motor Fuel Tax Law, and who is not a licensed distributor or supplier, as defined in the

Motor Fuel Tax Law, shall prepay to his or her distributor, supplier, or other reseller of motor fuel a portion of the tax imposed by this Act if the distributor, supplier, or other reseller of motor fuel is registered under Section 2a or Section 2c of this Act. The prepayment requirement provided for in this Section does not apply to liquid propane gas.

(b) Beginning on July 1, 2000 and through December 31, 2000, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to \$0.01 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to \$0.01 per gallon, purchased from the distributor, supplier, or other reseller.

(c) Before July 1, 2000 and then beginning on January 1, 2001 and through June 30, 2003, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to \$0.04 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to \$0.03 per gallon, purchased from the distributor, supplier, or other reseller.

(d) Beginning July 1, 2003 and through December 31, 2010, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to \$0.06 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to \$0.05 per gallon, purchased from the distributor, supplier, or



other reseller.

(e) Beginning on January 1, 2011 and thereafter, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be at the rate established by the Department under this subsection. The rate shall be established by the Department on January 1 and July 1 of each year using the average selling price, as defined in Section 1 of this Act, per gallon of motor fuel sold in the State during the previous 6 months and multiplying that amount by 6.25% to determine the cents per gallon rate. Beginning on January 1, 2024 and through December 31, 2028, In the case of biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, and in the case of gasohol, as defined in Section 3-40 of the Use Tax Act, the rate shall be 90% 80% of the rate established by the Department under this subsection for motor fuel. Beginning on January 1, 2024 and through December 31, 2028, in the case of mid-range ethanol blends, as defined in Section 3-44.3 of the Use Tax Act, the rate shall be 80% of the rate established by the Department under this subsection for motor fuel. The Department shall provide persons subject to this Section notice of the rate established under this subsection at least 20 days prior to each January 1 and July 1. Publication of the established rate on the Department's internet website shall constitute sufficient notice under this Section. The Department may use data derived from independent surveys

conducted or accumulated by third parties to determine the average selling price per gallon of motor fuel sold in the State.

(f) Any person engaged in the business of selling motor fuel at retail shall be entitled to a credit against tax due under this Act in an amount equal to the tax paid to the distributor, supplier, or other reseller.

(g) Every distributor, supplier, or other reseller registered as provided in Section 2a or Section 2c of this Act shall remit the prepaid tax on all motor fuel that is due from any person engaged in the business of selling at retail motor fuel with the returns filed under Section 2f or Section 3 of this Act, but the vendors discount provided in Section 3 shall not apply to the amount of prepaid tax that is remitted. Any distributor or supplier who fails to properly collect and remit the tax shall be liable for the tax. For purposes of this Section, the prepaid tax is due on invoiced gallons sold during a month by the 20th day of the following month.

(Source: P.A. 96-1384, eff. 7-29-10.)

#### ARTICLE 15. ELECTRIC GENERATION EQUIPMENT

Section 15-5. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5)

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

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued

by the Department.

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

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals

acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under paragraph (18).

(7) Farm chemicals.

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

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

(10) A motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle

Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (11). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

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

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals.

Beginning on January 1, 2024, farm machinery and equipment also includes electrical power generation equipment used

primarily for production agriculture.

This item (11) is exempt from the provisions of Section 3-90.

(12) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving,

hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

(16) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid



during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (18) includes production related tangible personal property, as defined in Section 3-50, purchased on or after July 1, 2019. The exemption provided by this paragraph (18) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers

through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. Beginning on July 1, 2017, the exemption provided by this paragraph (18) includes, but is not limited to, graphic arts machinery and equipment, as defined in paragraph (6) of this Section.

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

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

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

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

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to

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

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification

number by the Department that assists victims of the disaster who reside within the declared disaster area.

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

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association,

foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

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

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(31) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the

diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be



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

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross

vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(35) Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and

maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the use of qualifying tangible personal property by persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (35) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (35) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act

101-629) ~~this amendatory Act of the 101st General Assembly.~~

(36) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-90.

(37) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(38) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 3-90.

(39) Tangible personal property purchased by a purchaser

who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-90.

(40) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 been in effect may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (40) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (40):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within

the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate

of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (40) is exempt from the provisions of Section 3-90.

(41) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (41) is exempt from the provisions of Section 3-90. As used in this item (41):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast

milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(42) ~~(41)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (42) ~~(41)~~ is exempt from the provisions of Section 3-90.

(Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff.



6-17-21; 102-700, Article 70, Section 70-5, eff. 4-19-22; 102-700, Article 75, Section 75-5, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-1-22.)

Section 15-10. The Service Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 110/3-5)

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

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or

services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under Section 2 of this Act.

(6) Personal property purchased from a teacher-sponsored

student organization affiliated with an elementary or secondary school located in Illinois.

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

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not

limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals.

Beginning on January 1, 2024, farm machinery and equipment also includes electrical power generation equipment used primarily for production agriculture.

This item (7) is exempt from the provisions of Section 3-75.

(8) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is

engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Proceeds from the sale of photoprocessing machinery

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

(12) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

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

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30,

1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

reason, the lessor is liable to pay that amount to the Department.

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

(17) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared



disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

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

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association,

foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

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

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

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) Beginning August 23, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the

Specialized Mental Health Rehabilitation Act of 2013.

(24) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit

corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(27) Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the use of qualifying tangible personal property transferred incident to the modification, refurbishment, completion, replacement, repair, or maintenance of aircraft by persons who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not

include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (27) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (27) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(28) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions

of Section 3-75.

(29) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(30) Tangible personal property transferred to a purchaser who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-75.

(31) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 ~~this amendatory Act of the 101st General Assembly~~ been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (31) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the



Civil Administrative Code of Illinois.

For the purposes of this item (31):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer

data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (31) is exempt from the provisions of Section 3-75.

(32) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (32) is exempt from the provisions of Section 3-75. As used in this item (32):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies"

includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(33) ~~(32)~~ Tangible personal property sold by or on behalf

of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (33) ~~(32)~~ is exempt from the provisions of Section 3-75.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article 70, Section 70-10, eff. 4-19-22; 102-700, Article 75, Section 75-10, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-3-22.)

Section 15-15. The Service Occupation Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 115/3-5)

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

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

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

(3) Personal property purchased by any not-for-profit arts or cultural organization that establishes, by proof required

by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on

July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under Section 2 of this Act.

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

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

Farm machinery and equipment shall include precision

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

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals.

Beginning on January 1, 2024, farm machinery and equipment also includes electrical power generation equipment used primarily for production agriculture.

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

(8) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding



motor vehicles required to be registered under the Illinois Vehicle Code.

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

(12) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(13) Beginning January 1, 1992 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical

assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

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

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

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

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

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

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-55.

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

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

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002 and through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated,

or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(28) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but

only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-55.

(29) Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This



exemption applies only to the transfer of qualifying tangible personal property incident to the modification, refurbishment, completion, replacement, repair, or maintenance of an aircraft by persons who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (29) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (29) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(30) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(31) Tangible personal property transferred to a purchaser who is exempt from tax by operation of federal law. This paragraph is exempt from the provisions of Section 3-55.

(32) Qualified tangible personal property used in the

construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 ~~this amendatory Act of the 101st General Assembly~~ been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (32) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (32):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and

chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (32) is exempt from the provisions of Section

3-55.

(33) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (33) is exempt from the provisions of Section 3-55. As used in this item (33):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the

operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(34) ~~(33)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (34) ~~(33)~~ is exempt from the provisions of Section 3-55.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article 70, Section 70-15, eff. 4-19-22; 102-700, Article 75, Section 75-15, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-9-22.)

Section 15-20. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5)

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

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed

and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

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

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals.

Beginning on January 1, 2024, farm machinery and equipment also includes electrical power generation equipment used primarily for production agriculture.

This item (2) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for

the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under paragraph (14).

(5) A motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

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

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is



subject to the Replacement Vehicle Tax.

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

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

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

(12) (Blank).

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and

(iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

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

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or

as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (14) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. Beginning on July 1, 2017, the exemption provided by this paragraph (14) includes, but is not limited to, graphic arts machinery and equipment, as defined in paragraph (4) of this Section.

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

(16) Tangible personal property sold to a purchaser if the purchaser is exempt from use tax by operation of federal law. This paragraph is exempt from the provisions of Section 2-70.

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

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

(19) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

(21) Until July 1, 2028, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(22) Until June 30, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products

sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

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

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident

purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must



retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR ~~C.F.R.~~ 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form

prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

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

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American

Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

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

(30) Beginning with taxable years ending on or after

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

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

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is

exempt from the provisions of Section 2-70.

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

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity

recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and

nongprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a



community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved

repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (40) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (40) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020 (the effective date of Public Act 101-629) ~~this amendatory Act of the 101st General Assembly.~~

(41) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or

other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 2-70.

(42) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(43) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(44) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 ~~this amendatory Act of the 101st General Assembly~~ been in

effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (44) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (44):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing

systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated into the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (44) is exempt from the provisions of Section 2-70.

(45) Beginning January 1, 2020 and through December 31, 2020, sales of tangible personal property made by a marketplace seller over a marketplace for which tax is due under this Act but for which use tax has been collected and remitted to the Department by a marketplace facilitator

under Section 2d of the Use Tax Act are exempt from tax under this Act. A marketplace seller claiming this exemption shall maintain books and records demonstrating that the use tax on such sales has been collected and remitted by a marketplace facilitator. Marketplace sellers that have properly remitted tax under this Act on such sales may file a claim for credit as provided in Section 6 of this Act. No claim is allowed, however, for such taxes for which a credit or refund has been issued to the marketplace facilitator under the Use Tax Act, or for which the marketplace facilitator has filed a claim for credit or refund under the Use Tax Act.

(46) Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This item (46) is exempt from the provisions of Section 2-70. As used in this item (46):

"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect

milk expressed from a human breast and to store collected milk until it is ready for consumption.

"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.

"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.

"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is

pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.

(47) ~~(46)~~ Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This item (47) ~~(46)~~ is exempt from the provisions of Section 2-70.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-634, eff. 8-27-21; 102-700, Article 70, Section 70-20, eff. 4-19-22; 102-700, Article 75, Section 75-20, eff. 4-19-22; 102-813, eff. 5-13-22; 102-1026, eff. 5-27-22; revised 8-15-22.)

#### ARTICLE 20. PARKING EXCISE TAX

Section 20-5. The Parking Excise Tax Act is amended by changing Sections 10-5, 10-10, 10-15, 10-25, 10-30, 10-35, 10-45, and 10-50 as follows:

(35 ILCS 525/10-5)

(Text of Section before amendment by P.A. 102-700)

Sec. 10-5. Definitions.

"Booking intermediary" means any person or entity that facilitates the processing and fulfillment of reservation transactions between an operator and a person or entity desiring parking in a parking lot or garage of that operator.

"Charge or fee paid for parking" means the gross amount of



consideration for the use or privilege of parking a motor vehicle in or upon any parking lot or garage in the State, collected by an operator and valued in money, whether received in money or otherwise, including cash, credits, property, and services, determined without any deduction for costs or expenses, but not including charges that are added to the charge or fee on account of the tax imposed by this Act or on account of any other tax imposed on the charge or fee. "Charge or fee paid for parking" excludes separately stated charges not for the use or privilege or parking and excludes amounts retained by or paid to a booking intermediary for services provided by the booking intermediary. If any separately stated charge is not optional, it shall be presumed that it is part of the charge for the use or privilege or parking.

"Department" means the Department of Revenue.

"Operator" means any person who engages in the business of operating a parking area or garage, or who, directly or through an agreement or arrangement with another party, collects the consideration for parking or storage of motor vehicles, recreational vehicles, or other self-propelled vehicles, at that parking place. This includes, but is not limited to, any facilitator or aggregator that collects from the purchaser the charge or fee paid for parking. "Operator" does not include a bank, credit card company, payment processor, booking intermediary, or person whose involvement is limited to performing functions that are similar to those

performed by a bank, credit card company, payment processor, or booking intermediary.

"Parking area or garage" means any real estate, building, structure, premises, enclosure or other place, whether enclosed or not, except a public way, within the State, where motor vehicles, recreational vehicles, or other self-propelled vehicles, are stored, housed or parked for hire, charge, fee or other valuable consideration in a condition ready for use, or where rent or compensation is paid to the owner, manager, operator or lessee of the premises for the housing, storing, sheltering, keeping or maintaining motor vehicles, recreational vehicles, or other self-propelled vehicles. "Parking area or garage" includes any parking area or garage, whether the vehicle is parked by the owner of the vehicle or by the operator or an attendant.

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

"Purchase price" means the consideration paid for the purchase of a parking space in a parking area or garage, valued in money, whether received in money or otherwise, including cash, gift cards, credits, and property, and shall be determined without any deduction on account of the cost of materials used, labor or service costs, or any other expense

whatsoever.

"Purchase price" includes any and all charges that the recipient pays related to or incidental to obtaining the use or privilege of using a parking space in a parking area or garage, including but not limited to any and all related markups, service fees, convenience fees, facilitation fees, cancellation fees, overtime fees, or other such charges, regardless of terminology. However, "purchase price" shall not include consideration paid for:

(1) optional, separately stated charges not for the use or privilege of using a parking space in the parking area or garage;

(2) any charge for a dishonored check;

(3) any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(4) any purchase by a purchaser if the operator is prohibited by federal or State Constitution, treaty, convention, statute or court decision from collecting the tax from such purchaser;

(5) the isolated or occasional sale of parking spaces subject to tax under this Act by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling of parking spaces; and

(6) any amounts added to a purchaser's bills because of charges made pursuant to the tax imposed by this Act. If credit is extended, then the amount thereof shall be

included only as and when payments are made.

"Purchaser" means any person who acquires a parking space in a parking area or garage for use for valuable consideration.

"Use" means the exercise by any person of any right or power over, or the enjoyment of, a parking space in a parking area or garage subject to tax under this Act.

(Source: P.A. 101-31, eff. 6-28-19.)

(Text of Section after amendment by P.A. 102-700)

Sec. 10-5. Definitions. As used in this Act:

"Booking intermediary" means any person or entity that facilitates the processing and fulfillment of reservation transactions between an operator and a person or entity desiring parking in a parking lot or garage of that operator.

"Department" means the Department of Revenue.

"Operator" means any person who engages in the business of operating a parking area or garage, or who, directly or through an agreement or arrangement with another party, collects the consideration for parking or storage of motor vehicles, recreational vehicles, or other self-propelled vehicles, at that parking place. ~~This includes, but is not limited to, any facilitator or aggregator that collects the purchase price from the purchaser.~~ "Operator" does not include a bank, credit card company, payment processor, booking intermediary (except to the extent a booking intermediary is

required to be registered under Section 10-30 or as otherwise provided in this Act), or person whose involvement is limited to performing functions that are similar to those performed by a bank, credit card company, ~~or~~ payment processor, or booking intermediary.

"Parking area or garage" means any real estate, building, structure, premises, enclosure or other place, whether enclosed or not, except a public way, within the State, where motor vehicles, recreational vehicles, or other self-propelled vehicles, are stored, housed or parked for hire, charge, fee or other valuable consideration in a condition ready for use, or where rent or compensation is paid to the owner, manager, operator or lessee of the premises for the housing, storing, sheltering, keeping or maintaining motor vehicles, recreational vehicles, or other self-propelled vehicles.

"Parking area or garage" includes any parking area or garage, whether the vehicle is parked by the owner of the vehicle or by the operator or an attendant.

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

"Purchase price" means the consideration paid for the purchase of a parking space in a parking area or garage, valued in money, whether received in money or otherwise, including

cash, gift cards, credits, and property, and shall be determined without any deduction on account of the cost of materials used, labor or service costs, or any other expense whatsoever.

"Purchase price" includes any and all charges that the recipient pays related to or incidental to obtaining the use or privilege of using a parking space in a parking area or garage, including but not limited to any and all related markups, service fees, convenience fees, facilitation fees, cancellation fees, overtime fees, or other such charges, regardless of terminology. However, "purchase price" shall not include consideration paid for:

(1) optional, separately stated charges not for the use or privilege of using a parking space in the parking area or garage;

(2) any charge for a dishonored check;

(3) any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(4) any purchase by a purchaser if the operator is prohibited by federal or State Constitution, treaty, convention, statute or court decision from collecting the tax from such purchaser;

(5) the isolated or occasional sale of parking spaces subject to tax under this Act by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling of parking spaces; and

(6) any amounts added to a purchaser's bills because of charges made pursuant to the tax imposed by this Act. If credit is extended, then the amount thereof shall be included only as and when payments are made.

"Purchaser" means any person who acquires a parking space in a parking area or garage for use for valuable consideration.

"Use" means the exercise by any person of any right or power over, or the enjoyment of, a parking space in a parking area or garage subject to tax under this Act.

(Source: P.A. 101-31, eff. 6-28-19; 102-700, eff. 7-1-23.)

(35 ILCS 525/10-10)

Sec. 10-10. Imposition of tax; calculation of tax.

(a) Beginning on January 1, 2020, a tax is imposed on the privilege of using in this State a parking space in a parking area or garage for the use of parking one or more motor vehicles, recreational vehicles, or other self-propelled vehicles, at the rate of:

(1) 6% of the purchase price for a parking space paid for on an hourly, daily, or weekly basis; and

(2) 9% of the purchase price for a parking space paid for on a monthly or annual basis.

(b) The tax shall be collected from the purchaser by the operator. Notwithstanding the provisions of this subsection, beginning on January 1, 2024, if a booking intermediary

facilitates the processing and fulfillment of the reservation for an operator that is not registered under Section 10-30, then the tax shall be collected on the purchase price from the purchaser by the booking intermediary on behalf of the operator, and the tax shall be remitted to the Department by the booking intermediary. The booking intermediary that facilitates the processing and fulfillment of the reservation for an operator that is not registered under Section 10-30 and the unregistered operator are jointly and severally liable for payment of the tax to the Department.

(b-5) Booking intermediaries shall collect the tax on the purchase price paid by purchasers on behalf of registered operators. If a booking intermediary charges a separate service charge that is included in the purchase price, the tax shall be collected on that separate service charge as well, even if the separate service charge is retained by the booking intermediary. Beginning January 1, 2024, booking intermediaries are liable for and shall remit the tax to the Department on any separately stated service fee that the booking intermediary charges to the customer. Operators are liable for the remittance of tax under this Act on the remainder of the purchase price for the transaction. Booking intermediaries and operators are subject to audit on all such sales.

(c) An operator that has paid or remitted the tax imposed by this Act to another operator in connection with the same



parking transaction, or the use of the same parking space, that is subject to tax under this Act, shall be entitled to a credit for such tax paid or remitted against the amount of tax owed under this Act, provided that the other operator is registered under this Act. The operator claiming the credit shall have the burden of proving it is entitled to claim a credit.

(d) If any operator or booking intermediary erroneously collects tax or collects more from the purchaser than the purchaser's liability for the transaction, the purchaser shall have a legal right to claim a refund of such amount from the operator or booking intermediary. However, if such amount is not refunded to the purchaser for any reason, the operator or booking intermediary is liable to pay such amount to the Department.

(e) The tax imposed by this Section is not imposed with respect to any transaction in interstate commerce, to the extent that the transaction may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State.

(Source: P.A. 101-31, eff. 6-28-19.)

(35 ILCS 525/10-15)

Sec. 10-15. Filing of returns and deposit of proceeds. On or before the last day of each calendar month, every operator engaged in the business of providing to purchasers parking

areas and garages in this State during the preceding calendar month and every booking intermediary required to collect tax under Section 10-10 shall file a return with the Department, stating:

(1) the name of the operator or booking intermediary;

(2) the address of its principal place of business and, if applicable, the address of the principal place of business from which it provides parking areas and garages in this State;

(3) the total amount of receipts received by the operator during the preceding calendar month or quarter, as the case may be, from sales of parking spaces to purchasers in parking areas or garages during the preceding calendar month or quarter; the total amount of receipts for separately stated service fees that are charged to the customer by the booking intermediary in connection with the booking intermediary's facilitation of parking spot reservations for an operator during the preceding calendar month or quarter, as the case may be; and, if the return is filed by a booking intermediary that collects the tax under this Act on behalf of an unregistered operator, as provided in Section 10-10, then the total amount of receipts received by the booking intermediary on behalf of the unregistered operator during the preceding calendar month or quarter, as the case may be, from sales of parking spaces to purchasers in parking

areas or garages during the preceding calendar month or quarter;

(4) deductions allowed by law;

(5) the total amount of receipts received by the operator during the preceding calendar month or quarter upon which the tax was computed; the total amount of receipts for separately stated service fees that are charged to the customer by a booking intermediary in connection with the booking intermediary's facilitation of parking spot reservations for an operator during the preceding calendar month or quarter upon which the tax was computed; and, if the return is filed by a booking intermediary that collects the tax under this Act on behalf of an unregistered operator, as provided in Section 10-10, then the total amount of receipts received by the booking intermediary on behalf of the unregistered operator during the preceding calendar month or quarter upon which the tax was computed;

(6) the amount of tax due; and

(7) such other reasonable information as the Department may require.

If an operator or booking intermediary ceases to engage in the kind of business that makes it responsible for filing returns under this Act, then that operator or booking intermediary shall file a final return under this Act with the Department on or before the last day of the month after

discontinuing such business.

All returns required to be filed and payments required to be made under this Act shall be by electronic means. Taxpayers who demonstrate hardship in filing or paying electronically may petition the Department to waive the electronic filing or payment requirement, or both. The Department may require a separate return for the tax under this Act or combine the return for the tax under this Act with the return for other taxes. In addition to the requirement to file all returns required to be filed and payments required to be made under this Act by electronic means, booking intermediaries shall file returns in the form and manner required by the Department.

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

If the operator or booking intermediary is a corporation, the return filed on behalf of that corporation shall be signed by the president, vice-president, secretary, or treasurer, or by a properly accredited agent of such corporation.

The operator or booking intermediary filing the return under this Act shall, at the time of filing the return, pay to the Department the amount of tax imposed by this Act less a discount of 1.75%, not to exceed \$1,000 per month, which is

allowed to reimburse the operator or booking intermediary for the expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying data to the Department on request.

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, as shown on an original return, the Department may authorize the taxpayer to credit such excess payment against liability subsequently to be remitted to the Department under this Act, in accordance with reasonable rules adopted by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's discount shall be reduced by an amount equal to the difference between the discount as applied to the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

(Source: P.A. 101-31, eff. 6-28-19.)

(35 ILCS 525/10-25)

Sec. 10-25. Collection of tax.

(a) Beginning with bills issued or charges collected for a purchase of a parking space in a parking area or garage on and after January 1, 2020, the tax imposed by this Act shall be collected from the purchaser by the operator, or, beginning January 1, 2024 by a booking intermediary as provided in Section 10-10, at the rate stated in Section 10-10 and shall be

remitted to the Department as provided in this Act. All charges for parking spaces in a parking area or garage are presumed subject to tax collection. Operators and booking intermediaries, as applicable, shall collect the tax from purchasers by adding the tax to the amount of the purchase price received from the purchaser. The tax imposed by the Act shall when collected be stated as a distinct item separate and apart from the purchase price of the service subject to tax under this Act. However, where it is not possible to state the tax separately the Department may by rule exempt such purchases from this requirement so long as purchasers are notified by language on the invoice or notified by a sign that the tax is included in the purchase price.

(b) Any person purchasing a parking space in a parking area or garage subject to tax under this Act as to which there has been no charge made to him of the tax imposed by Section 10-10, shall make payment of the tax imposed by Section 10-10 of this Act in the form and manner provided by the Department, such payment to be made to the Department in the manner and form required by the Department not later than the 20th day of the month following the month of purchase of the parking space.

(Source: P.A. 101-31, eff. 6-28-19.)

(35 ILCS 525/10-30)

Sec. 10-30. Registration of operators and booking

intermediaries.

(a) A person who engages in business as an operator of a parking area or garage in this State, or, beginning January 1, 2024, a booking intermediary that directly charges to a customer a separately stated service fee pursuant to subsection (b-5) of Section 10-10, or, beginning January 1, 2024, a booking intermediary that facilitates the processing and fulfillment of a reservation for an operator that is not registered under Section 10-10, shall register with the Department. Application for a certificate of registration shall be made to the Department, by electronic means, in the form and manner prescribed by the Department and shall contain any reasonable information the Department may require. Upon receipt of the application for a certificate of registration in proper form and manner, the Department shall issue to the applicant a certificate of registration. Operators who demonstrate that they do not have access to the Internet or demonstrate hardship in applying electronically may petition the Department to waive the electronic application requirements.

(b) The Department may refuse to issue or reissue a certificate of registration to any applicant for the reasons set forth in Section 2505-380 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(c) Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such

decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: P.A. 101-31, eff. 6-28-19.)

(35 ILCS 525/10-35)

Sec. 10-35. Revocation of certificate of registration.

(a) The Department may, after notice and a hearing as provided in this Act, revoke the certificate of registration of any operator or booking intermediary who violates any of the provisions of this Act or any rule adopted pursuant to this Act. Before revocation of a certificate of registration, the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the operator or booking intermediary so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90-day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary. Any hearing held under this Section shall be conducted by the Director or by any officer or employee of the



Department designated in writing by the Director.

(b) The Department may revoke a certificate of registration for the reasons set forth in Section 2505-380 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(c) Upon the hearing of any such proceeding, the Director or any officer or employee of the Department designated in writing by the Director may administer oaths, and the Department may procure by its subpoena the attendance of witnesses and, by its subpoena duces tecum, the production of relevant books and papers. Any circuit court, upon application either of the operator or of the Department, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Department in any hearing relating to the revocation of certificates of registration. Upon refusal or neglect to obey the order of the court, the court may compel obedience thereof by proceedings for contempt.

(d) The Department may, by application to any circuit court, obtain an injunction requiring any person who engages in business as an operator or booking intermediary under this Act to obtain a certificate of registration. Upon refusal or neglect to obey the order of the court, the court may compel obedience by proceedings for contempt.

(Source: P.A. 101-31, eff. 6-28-19.)

(35 ILCS 525/10-45)

Sec. 10-45. Tax collected as debt owed to State. The tax herein required to be collected by any operator, booking intermediary, or valet business and any such tax collected by that person, shall constitute a debt owed by that person to this State.

(Source: P.A. 101-31, eff. 6-28-19.)

(35 ILCS 525/10-50)

Sec. 10-50. Incorporation by reference. All of the provisions of Sections 1, 2a, 2b, 3 (except provisions relating to transaction returns and except for provisions that are inconsistent with this Act), in respect to all provisions therein other than the State rate of tax) 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act that are not inconsistent with this Act, and all provisions of the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included in this Act. The enumerated provisions of the Retailers' Occupation Tax Act in this Section and all provisions of the Uniform Penalty and Interest Act shall apply, as far as practicable, to booking intermediaries required to be registered under Section 10-30 of this Act.

(Source: P.A. 101-31, eff. 6-28-19.)

ARTICLE 25. HOTELS-DISASTER RELIEF

Section 25-5. The Hotel Operators' Occupation Tax Act is amended by changing Section 3 as follows:

(35 ILCS 145/3) (from Ch. 120, par. 481b.33)

Sec. 3. Rate; exemptions.

(a) A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of 5% of 94% of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

(b) There shall be imposed an additional tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of 1% of 94% of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

(c) No funds received pursuant to this Act shall be used to

advertise for or otherwise promote new competition in the hotel business.

(d) However, such tax is not imposed upon the privilege of engaging in any business in Interstate Commerce or otherwise, which business may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State. In addition, the tax is not imposed upon gross rental receipts for which the hotel operator is prohibited from obtaining reimbursement for the tax from the customer by reason of a federal treaty.

(d-5) On and after July 1, 2017, the tax imposed by this Act shall not apply to gross rental receipts received by an entity that is organized and operated exclusively for religious purposes and possesses an active Exemption Identification Number issued by the Department pursuant to the Retailers' Occupation Tax Act when acting as a hotel operator renting, leasing, or letting rooms:

(1) in furtherance of the purposes for which it is organized; or

(2) to entities that (i) are organized and operated exclusively for religious purposes, (ii) possess an active Exemption Identification Number issued by the Department pursuant to the Retailers' Occupation Tax Act, and (iii) rent the rooms in furtherance of the purposes for which they are organized.

No gross rental receipts are exempt under paragraph (2) of

this subsection (d-5) unless the hotel operator obtains the active Exemption Identification Number from the exclusively religious entity to whom it is renting and maintains that number in its books and records. Gross rental receipts from all rentals other than those described in items (1) or (2) of this subsection (d-5) are subject to the tax imposed by this Act unless otherwise exempt under this Act.

This subsection (d-5) is exempt from the sunset provisions of Section 3-5 of this Act.

(d-10) On and after July 1, 2023, the tax imposed by this Act shall not apply to gross rental receipts received from the renting, leasing, or letting of rooms to an entity that is organized and operated exclusively by an organization chartered by the United States Congress for the purpose of providing disaster relief and that possesses an active Exemption Identification Number issued by the Department pursuant to the Retailers' Occupation Tax Act if the renting, leasing, or letting of the rooms is in furtherance of the purposes for which the exempt organization is organized. This subsection (d-10) is exempt from the sunset provisions of Section 3-5 of this Act.

(e) Persons subject to the tax imposed by this Act may reimburse themselves for their tax liability under this Act by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with any tax imposed pursuant to Sections 8-3-13 and 8-3-14 of the

Illinois Municipal Code, and Section 25.05-10 of "An Act to revise the law in relation to counties".

(f) If any hotel operator collects an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipts which are not subject to hotel operators' occupation tax, or if any hotel operator, in collecting an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipts which are subject to tax under this Act, collects more from the customer than the operators' hotel operators' occupation tax liability in the transaction is, the customer shall have a legal right to claim a refund of such amount from such operator. However, if such amount is not refunded to the customer for any reason, the hotel operator is liable to pay such amount to the Department.

(Source: P.A. 100-213, eff. 8-18-17.)

#### ARTICLE 30. MUNICIPAL CODE-UTILITIES

Section 30-5. The Illinois Municipal Code is amended by changing Section 8-11-2.5 as follows:

(65 ILCS 5/8-11-2.5)

Sec. 8-11-2.5. Municipal tax review; requests for information.

(a) If a municipality has imposed a tax under Section 8-11-2, then the municipality, which may act through its designated auditor or agent, may conduct an audit of tax receipts collected from the public utility that is subject to the tax or that collects the tax from purchasers on behalf of the municipality to determine whether the amount of tax that was paid by the public utility was accurate.

(b) Not more than once every 2 years, a municipality that has imposed a tax under Section 8-11-2 of this Code ~~Act~~ may, subject to the limitations and protections stated in the Local Government Taxpayers' Bill of Rights Act, make a written request via e-mail to an e-mail address provided by the utility for any information from a utility in the format maintained by the public utility in the ordinary course of its business that the municipality reasonably requires in order to perform an audit under subsection (a). The information that may be requested by the municipality includes, without limitation:

(1) in an electronic format used by the public utility in the ordinary course of its business, the premises-specific and other information used by the public utility to determine the amount of tax due to the municipality, for a time period that includes the year in which the request is made and not more than 6 years immediately preceding that year, as appropriate for the period being audited, and which shall include for each

customer premises in the municipality: (i) the premises address and zip code; (ii) the classification of the premises as designated by the public utility, such as residential, commercial, or industrial; (iii) monthly usage information sufficient to calculate taxes due, in therms, kilowatts, minutes, or other such other unit of measurement used to calculate the taxes; (iv) the taxes actually assessed, collected, and remitted to the municipality; (v) the first date of service for the premises, if that date occurred within the period being audited; and (vi) any tax exemption claimed for the premises and any additional information that supports a specific tax exemption, if the municipality requests that information, including the customer name and other relevant data; however, a public utility that is an electric utility may not provide other customer-specific information to the municipality; and

(2) the premises address for customer accounts that the public utility's records indicate are: (i) in a bordering municipality, township, or unincorporated area (other than the City of Chicago), provided that the municipality provides the public utility a list of such bordering jurisdictions; or (ii) in any zip code with boundaries that include or are adjacent to the requesting municipality provided that the municipality provides the public utility a list of those zip codes; this item (ii)



applies to requests made on or after September 1, 2022. If any such customer is determined by the municipality and the utility to be located within the requesting municipality, then the public utility shall provide the additional information provided in paragraph (1) of this subsection (b).~~▸~~

Following the municipality's receipt of the information provided by the public utility pursuant to paragraphs (1) or (2) of this subsection (b), if a question or issue arises that can only be addressed by accessing customer-specific or additional information not described in this Section, then the utility shall attempt to resolve the question or issue without disclosing any customer-specific information. ~~If this process does not resolve the question or issue, then either the municipality or public utility can further pursue the matter before the Department of Revenue, which has the discretion to receive or share customer specific information with the municipality as appropriate subject to confidentiality restrictions.~~

(c) Each public utility must provide the information requested under subsection (b) within 45 days after the date of the request.

The time in which a public utility must provide the information requested under subsection (b) may be extended by an agreement between the municipality and the public utility.

(d) If an audit by the municipality or its agents finds an

error by the public utility in the amount of taxes paid by the public utility, then the municipality must notify the public utility of the error. Any such notice must be issued pursuant to Section 30 of the Local Government Taxpayers' Bill of Rights Act or a lesser period of time from the date the tax was due that may be specified in the municipal ordinance imposing the tax. Upon such a notice, any audit shall be conducted pursuant to Section 35 of the Local Government Taxpayers' Bill of Rights Act subject to the timelines set forth in this subsection (d). The public utility must submit a written response within 60 days after the date the notice was postmarked stating that it has corrected the error or stating the reason that the error is inapplicable or inaccurate. The municipality then has 60 days after the receipt of the public utility's response to review and contest the conclusion of the public utility. If the parties are unable to agree on the disposition of the audit findings within 120 days after the notification of the error to the public utility, then either party may submit the matter for appeal as outlined in Section 40 of the Local Government Taxpayers' Bill of Rights Act. If the appeals process does not produce a satisfactory result, then either party may pursue the alleged error in a court of competent jurisdiction.

(e) The public utility shall be liable to the municipality for unpaid taxes, including taxes that the public utility failed to properly bill to the customer subject to ~~subsection~~

paragraph (2) of subsection (e-10) of this Section. This subsection (e) does not limit a utility's right to an offsetting credit it would otherwise be entitled to, including that authorized by subsection (c) of Section 8-11-2 of this ~~the~~ Code. To the extent that a public utility's errors in past tax collections and payments relate to premises located in an area of the municipality that was annexed on or after March 17, 2023 (the effective date of Public Act 102-1144) ~~this~~ ~~amendatory Act of the 102nd General Assembly~~, however, the public utility shall only be liable for such errors beginning 60 days after the date that the municipality provided the public utility notice of the annexation, provided that the public utility provides municipalities with an email address to send annexation notices. A copy of the annexation ordinance and the map filed with the County Clerk sent to the email address provided by the public utility shall be deemed sufficient notice, but other forms of notice may also be sufficient.

(e-5) Upon mutual agreement, a utility and municipality may use a web portal in lieu of email to receive notice of annexations and boundary changes. After December 31, 2025 for a gas public utility that serves more than 2,000,000 customers in Illinois and after December 31, 2022 for all other public utilities that serve more than 1,000,000 retail customers in Illinois, the public utilities shall provide a secure web portal for municipalities to use, and, thereafter, the web

portals shall be used by all municipalities to notify the public utilities of annexations. The web portal must provide the municipality with an electronic record of all communications and attached documents that the municipality has submitted through the portal.

(e-10) (1) No later than August 1, 2023, the Department of Revenue shall develop and publish a written process to be used by each public utility and each municipality that imposes a tax under Section 8-11-2 of this ~~the~~ Code, which may act through its designated auditor or agent, under which:

(A) by December 31, 2024, and on a regular schedule thereafter to occur approximately every 5 years, each public utility shall work collaboratively with each municipality to develop and file with the Department of Revenue, a master list of all premises addresses in the municipality (including premises addresses with inactive accounts) that are subject to such tax and all accounts in the municipality that are exempt from such tax, provided that the final date for the first master list shall be extended, at the utility's request, to no later than December 31, 2026;

(B) information is provided to the municipality to facilitate development of the master list including information described in paragraph (1) of subsection (b) of this Section regarding all accounts (including premises addresses with inactive accounts) that the public

utility's records show are in the municipality and the premises addresses in (i) any bordering municipality, (ii) any bordering township, or (iii) any zip code that is in any part in the municipality or that borders the municipality;

(C) any dispute between the public utility and the municipality related to the master list will be resolved;

(D) on a semi-annual basis following the development of the master list, each public utility shall provide to each municipality certain information that the municipality can use to nominate changes to the master list, including, but not limited to: (i) a list of any tax-related changes, such as the addition or removal of an exemption, or to the taxing jurisdiction, to any account on the master list; and (ii) new premises addresses within the municipality, any bordering municipality, in any bordering township, or in any zip code that is in any part in the municipality or that borders the municipality;

(E) accounts nominated by the municipality to be added or deleted from the master list may be submitted to the public utility and related disputes will be resolved;

(F) changes may be made to the master list; and

(G) the utility may file a master list based solely on its records if the municipality fails to participate and such a municipality may request to restart the process prior to the end of the 5-year ~~five-year~~ cycle.

(2) No public utility is liable for any error in tax collections or payments due more than 60 days after the date that the first master list for the relevant municipality is filed with the Department of Revenue unless such error in tax collection or payment:

(A) was related to a premises address on the master list at the time of the error;

(B) was related to an area of the municipality annexed on or after March 17, 2023 (the effective date of Public Act 102-1144) ~~this amendatory Act of the 102nd General Assembly~~, notice of which was properly provided to the public utility pursuant to the procedures set forth in subsection (e); or

(C) resulted from the public utility's failure to comply with the process established in this subsection (e-10).

(3) If the public utility uses a portal as set forth in subsection (e-5), all lists, changes affecting tax collection and remission, proposed corrections, and reports shall be provided through such portal.

(e-15) If a customer paid a tax to a municipality that the customer did not owe or was in excess of the tax the customer owed, then the customer may, to the extent allowed by Section 9-252 of the Public Utilities Act, recover the tax or over payment from the public utility, and any amount so paid by the public utility may be deducted by that public utility from any

taxes then or thereafter owed by the public utility to that municipality.

(e-20) (1) Any court of competent jurisdiction ~~The Department of Revenue~~ shall have the authority to resolve a claim by a municipality that a public utility materially failed to comply with the requirements of subsections (b) or (c) of this Section ~~or the process developed under subsection (e-10) of this Section.~~ If a court ~~the Department of Revenue~~ finds, after notice and hearing, that a public utility (i) caused a material delay in providing information properly requested under such subsections or (ii) omitted a material portion of information properly requested, then, if the claim relates to subsections (b) or (c), the court ~~Department~~ shall assess a penalty on the utility of up to \$50,000 per audit, or up to \$10,000 per audit for a utility that served less than 100,000 retail customers on the date of the audit notice, or, if the claim relates to subsection (e-10), up to \$50,000 per 5-year master list cycle or up to \$10,000 per cycle for a utility that served less than 100,000 retail customers on the date such master list was filed with the Department, which penalty shall be paid by the public utility to the municipality ~~Department of Revenue for deposit into the Supplemental Low Income Energy Assistance Fund.~~ Notwithstanding anything to the contrary, a penalty assessed pursuant to this subsection shall be the exclusive remedy for the conduct that is the subject of the claim. A penalty

assessed under this subsection shall bar and prohibit pursuit of any other penalty, fine, or recovery related to the conduct for which the penalty was assessed.

(2) No penalty shall be assessed by the Department pursuant to this subsection if the Department finds that a delay or omission was immaterial or de minimis.

(3) Any penalties or fines paid by a public utility pursuant to this subsection shall not be recoverable through the utility's rates.

(4) (Blank). ~~If a municipality and public utility have a disagreement regarding the scope or conduct of an audit undertaken pursuant to this Section, they shall work together in good faith to attempt to resolve the dispute. If, after a period of no less than 14 days, the municipality and public utility are not able to reach an agreement regarding the dispute, either entity, or both entities jointly, may submit a request to the Illinois Department of Revenue seeking resolution of the dispute, and the Department shall have the authority to resolve the issue, and shall resolve such dispute within 60 days. Each such request must include a statement showing that consultation and reasonable attempts to resolve the dispute have failed.~~

~~The time period established pursuant to this Section for complying with requests for information under this Section shall be suspended during the dispute resolution processes set forth in this paragraph (4) of subsection (c 20), but only for~~



~~the issue or issues that are the subject of the dispute. Information requests that are undisputed shall continue to be subject to the time periods for compliance set forth in this Section.~~

(f) All account-specific ~~account-specific~~ and premises-specific information provided by a public utility under this Section may be used only for the purpose of an audit of taxes conducted under this Section and the enforcement of any related tax claim. All such information must be held in strict confidence by the municipality and its agents and may not be disclosed to the public under the Freedom of Information Act or under any other similar statutes allowing for or requiring public disclosure.

(g) The provisions of this Section shall not be construed as diminishing or replacing any civil remedy available to a municipality, taxpayer, or tax collector.

(h) This Section does not apply to any municipality having a population greater than 1,000,000.

(i) The changes to subsection (e) and paragraph (2) of subsection (e-10) of this Section made by Public Act 102-1144 ~~this amendatory Act of the 102nd General Assembly~~ apply to taxes due on or after August 1, 2022. The remaining changes to this Section made by Public Act 102-1144 ~~this amendatory Act of the 102nd General Assembly~~ apply on or after March 17, 2023 (the effective date of Public Act 102-1144) ~~this amendatory Act of the 102nd General Assembly~~.

(j) As used in this Section:

"Customer-specific information" means the name, phone number, email address, and banking information of a customer. "Customer-specific information" includes the load-shape data associated with a customer account. "Customer-specific information" does not include the tax-exempt status of the premises and the name of tax-exempt ~~tax-exempt~~ customers.

"Premises-specific information" means any information, including billing and usage data, associated with a premises address that is not customer-specific information.

"Premises address" includes the jurisdiction to which the address is currently coded by the public utility for municipal tax purposes.

(Source: P.A. 102-1144, eff. 3-17-23; revised 4-5-23.)

#### ARTICLE 35. RIVER EDGE ZONES

Section 35-5. The River Edge Redevelopment Zone Act is amended by changing Section 10-5.3 as follows:

(65 ILCS 115/10-5.3)

Sec. 10-5.3. Certification of River Edge Redevelopment Zones.

(a) Approval of designated River Edge Redevelopment Zones shall be made by the Department by certification of the designating ordinance. The Department shall promptly issue a

certificate for each zone upon its approval. The certificate shall be signed by the Director of the Department, shall make specific reference to the designating ordinance, which shall be attached thereto, and shall be filed in the office of the Secretary of State. A certified copy of the River Edge Redevelopment Zone Certificate, or a duplicate original thereof, shall be recorded in the office of the recorder of deeds of the county in which the River Edge Redevelopment Zone lies.

(b) A River Edge Redevelopment Zone shall be effective upon its certification. The Department shall transmit a copy of the certification to the Department of Revenue, and to the designating municipality. Upon certification of a River Edge Redevelopment Zone, the terms and provisions of the designating ordinance shall be in effect, and may not be amended or repealed except in accordance with Section 10-5.4.

(c) A River Edge Redevelopment Zone shall be in effect for the period stated in the certificate, which shall in no event exceed 30 calendar years. Zones shall terminate at midnight of December 31 of the final calendar year of the certified term, except as provided in Section 10-5.4.

(d) In calendar years 2006 and 2007, the Department may certify one pilot River Edge Redevelopment Zone in the City of East St. Louis, one pilot River Edge Redevelopment Zone in the City of Rockford, and one pilot River Edge Redevelopment Zone in the City of Aurora.

In calendar year 2009, the Department may certify one pilot River Edge Redevelopment Zone in the City of Elgin.

On or after the effective date of this amendatory Act of the 97th General Assembly, the Department may certify one additional pilot River Edge Redevelopment Zone in the City of Peoria.

On or after the effective date of this amendatory Act of the 103rd General Assembly, the Department may certify 2 additional pilot River Edge Redevelopment Zones, including one in the City of Joliet and one in the City of Kankakee.

After certifying the additional pilot River Edge Redevelopment Zones authorized by the above paragraphs, ~~Thereafter~~ the Department may not certify any additional River Edge Redevelopment Zones, but it may amend and rescind certifications of existing River Edge Redevelopment Zones in accordance with Section 10-5.4, except that no River Edge Redevelopment Zone may be extended on or after the effective date of this amendatory Act of the 97th General Assembly. Each River Edge Redevelopment Zone in existence on the effective date of this amendatory Act of the 97th General Assembly shall continue until its scheduled termination under this Act, unless the Zone is decertified sooner. At the time of its term expiration each River Edge Redevelopment Zone will become an open enterprise zone, available for the previously designated area or a different area to compete for designation as an enterprise zone. No preference for designation as a Zone will

be given to the previously designated area.

(e) A municipality in which a River Edge Redevelopment Zone has been certified must submit to the Department, within 60 days after the certification, a plan for encouraging the participation by minority persons, women, persons with disabilities, and veterans in the zone. The Department may assist the municipality in developing and implementing the plan. The terms "minority person", "woman", and "person with a disability" have the meanings set forth under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. "Veteran" means an Illinois resident who is a veteran as defined in subsection (h) of Section 1491 of Title 10 of the United States Code.

(Source: P.A. 100-391, eff. 8-25-17.)

#### ARTICLE 40. HISTORIC PRESERVATION

Section 40-5. The Illinois Income Tax Act is amended by changing Section 228 as follows:

(35 ILCS 5/228)

Sec. 228. Historic preservation credit. For tax years beginning on or after January 1, 2019 and ending on or before December 31, 2028 ~~December 31, 2023~~, a taxpayer who qualifies for a credit under the Historic Preservation Tax Credit Act is entitled to a credit against the taxes imposed under

subsections (a) and (b) of Section 201 of this Act as provided in that Act. If the taxpayer is a partnership, Subchapter S corporation, or a limited liability company the credit shall be allowed to the partners, shareholders, or members in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code provided that credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method. If the amount of any tax credit awarded under this Section exceeds the qualified taxpayer's income tax liability for the year in which the qualified rehabilitation plan was placed in service, the excess amount may be carried forward as provided in the Historic Preservation Tax Credit Act.

(Source: P.A. 101-81, eff. 7-12-19; 102-741, eff. 5-6-22.)

Section 40-10. The Historic Preservation Tax Credit Act is amended by changing Sections 10 and 20 as follows:

(35 ILCS 31/10)

Sec. 10. Allowable credit.

(a) To the extent authorized by this Act, for taxable

years beginning on or after January 1, 2019 and ending on or before December 31, 2028 ~~December 31, 2023~~, there shall be allowed a tax credit to the qualified taxpayer against the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an aggregate amount equal to 25% of qualified expenditures, but not to exceed \$3,000,000, incurred undertaking a qualified rehabilitation plan, provided that the total amount of such expenditures must (i) equal \$5,000 or more and (ii) exceed the adjusted basis of the structure on the first day the qualified rehabilitation plan commenced. If the qualified rehabilitation plan spans multiple years, the aggregate credit for the entire project shall be allowed in the last taxable year.

(b) To obtain a tax credit certificate pursuant to this Section, the qualified taxpayer must apply with the Division. The Division shall determine the amount of eligible rehabilitation expenditures within 45 days after receipt of a complete application. The taxpayer must provide to the Division a third-party cost certification conducted by a certified public accountant verifying (i) the qualified and non-qualified rehabilitation expenses and (ii) that the qualified expenditures exceed the adjusted basis of the structure on the first day the qualified rehabilitation plan commenced. The accountant shall provide appropriate review and testing of invoices. The Division is authorized, but not required, to accept this third-party cost certification to

determine the amount of qualified expenditures. The Division and the National Park Service shall determine whether the rehabilitation is consistent with the Standards of the Secretary of the United States Department of the Interior.

(c) If the amount of any tax credit awarded under this Act exceeds the qualified taxpayer's income tax liability for the year in which the qualified rehabilitation plan was placed in service, the excess amount may be carried forward for deduction from the taxpayer's income tax liability in the next succeeding year or years until the total amount of the credit has been used, except that a credit may not be carried forward for deduction after the tenth taxable year after the taxable year in which the qualified rehabilitation plan was placed in service. Upon completion of the project and approval of the complete application, the Division shall issue a single certificate in the amount of the eligible credits equal to 25% of the qualified expenditures incurred during the eligible taxable years, not to exceed the lesser of the allocated amount or \$3,000,000 per single qualified rehabilitation plan. Prior to the issuance of the tax credit certificate, the qualified taxpayer must provide to the Division verification that the rehabilitated structure is a qualified historic structure. At the time the certificate is issued, an issuance fee up to the maximum amount of 2% of the amount of the credits issued by the certificate may be collected from the qualified taxpayer to administer the Act. If collected, this issuance



fee shall be directed to the Division Historic Property Administrative Fund or other such fund as appropriate for use of the Division in the administration of the Historic Preservation Tax Credit Program. The taxpayer must attach the certificate or legal documentation of her or his proportional share of the certificate to the tax return on which the credits are to be claimed. The tax credit under this Section may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess credit may be carried forward and applied to the tax liability of the 10 taxable years following the first excess credit year. The taxpayer is not eligible to receive credits under this Section and under Section 221 of the Illinois Income Tax Act for the same qualified expenditures or qualified rehabilitation plan.

(d) If the taxpayer is (i) a corporation having an election in effect under Subchapter S of the federal Internal Revenue Code, (ii) a partnership, or (iii) a limited liability company, the credit provided under this Act may be claimed by the shareholders of the corporation, the partners of the partnership, or the members of the limited liability company in the same manner as those shareholders, partners, or members account for their proportionate shares of the income or losses of the corporation, partnership, or limited liability company, or as provided in the bylaws or other executed agreement of the corporation, partnership, or limited liability company.

Credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method.

(e) If a recapture event occurs during the recapture period with respect to a qualified historic structure, then for any taxable year in which the credits are allowed as specified in this Act, the tax under the applicable Section of this Act shall be increased by applying the recapture percentage set forth below to the tax decrease resulting from the application of credits allowed under this Act to the taxable year in question.

For the purposes of this subsection, the recapture percentage shall be determined as follows:

(1) if the recapture event occurs within the first year after commencement of the recapture period, then the recapture percentage is 100%;

(2) if the recapture event occurs within the second year after commencement of the recapture period, then the recapture percentage is 80%;

(3) if the recapture event occurs within the third year after commencement of the recapture period, then the recapture percentage is 60%;

(4) if the recapture event occurs within the fourth

year after commencement of the recapture period, then the recapture percentage is 40%; and

(5) if the recapture event occurs within the fifth year after commencement of the recapture period, then the recapture percentage is 20%.

In the case of any recapture event, the carryforwards under this Act shall be adjusted by reason of such event.

(f) The Division may adopt rules to implement this Section in addition to the rules expressly authorized herein.

(Source: P.A. 101-81, eff. 7-12-19; 102-741, eff. 5-6-22.)

(35 ILCS 31/20)

Sec. 20. Limitations, reporting, and monitoring.

(a) In each ~~every~~ calendar year beginning on or after January 1, 2019 and ending on or before December 31, 2023 ~~that this program is in effect~~, the Division is authorized to allocate \$15,000,000 in tax credits in addition to any unallocated, returned, or rescinded allocations from previous years, pursuant to qualified rehabilitation plans. In each calendar year beginning on or after January 1, 2024 and ending on or before December 31, 2028, the Division is authorized to allocate \$25,000,000 in tax credits in addition to any unallocated, returned, or rescinded allocations from previous years, pursuant to qualified rehabilitation plans. The Division shall not allocate or award more than \$3,000,000 in tax credits with regard to a single qualified rehabilitation

plan. In allocating tax credits under this Act, the Division must prioritize applications that meet one or more of the following:

(1) the structure is located in a county that borders a State with a historic income-producing property rehabilitation credit;

(2) the structure was previously owned by a federal, state, or local governmental entity for no less than 6 months;

(3) the structure is located in a census tract that has a median family income at or below the State median family income; data from the most recent 5-year estimate from the American Community Survey (ACS), published by the U.S. Census Bureau, shall be used to determine eligibility;

(4) the qualified rehabilitation plan includes in the development partnership a Community Development Entity or a low-profit (B Corporation) or not-for-profit organization, as defined by Section 501(c)(3) of the Internal Revenue Code; or

(5) the structure is located in an area declared under an Emergency Declaration or Major Disaster Declaration under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act. The declaration must be no older than 3 years at the time of application.

(b) The annual aggregate authorization of \$15,000,000 set

forth in subsection (a) shall be allocated by the Division, in such proportion as determined by the Director twice in each calendar year that the program is in effect, provided that the amount initially allocated by the Division for the first calendar year application period shall not exceed 65% of the total amount available for allocation. Any unallocated amount remaining as of the end of the second application period of a given calendar year shall be rolled over and added to the total authorized amount for the next available calendar year. The qualified rehabilitation plan must meet a readiness test, as defined by the Division, in order for the application to qualify. In any given application period, applications that qualify under this Act will be prioritized as set forth in subsection (a) and placed in a queue based on the date and time the application is received. Applicants whose applications qualify but do not receive an allocation must reapply to be considered in subsequent application periods.

(c) Subject to appropriation to the Division, moneys in the Historic Property Administrative Fund shall be used, on a biennial basis, beginning at the end of the second fiscal year after the effective date of this Act, to hire a qualified third party to prepare a biennial report to assess the overall impact of this Act from the qualified rehabilitation plans under this Act completed in that year and in previous years. Baseline data of the metrics in the report shall be collected at the initiation of a qualified rehabilitation plan. The

overall economic impact shall include at least:

(1) the number of applications, project locations, and proposed use of qualified historic structures;

(2) the amount of credits awarded and the number and location of projects receiving credit allocations;

(3) the status of ongoing projects and projected qualifying expenditures for ongoing projects;

(4) for completed projects, the total amount of qualifying rehabilitation expenditures and non-qualifying expenditures, the number of housing units created and the number of housing units that qualify as affordable, and the total square footage rehabilitated and developed;

(5) direct, indirect, and induced economic impacts;

(6) temporary, permanent, and construction jobs created; and

(7) sales, income, and property tax generation before construction, during construction, and after completion.

The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(d) Any time prior to issuance of a tax credit certificate, the Director of the Division, the State Historic Preservation Officer, or staff of the Division may, upon reasonable notice of not less than 3 business days, conduct a site visit to the project to inspect and evaluate the project.

(e) Any time prior to the issuance of a tax credit certificate, the Director may, upon reasonable notice of not less than 30 calendar days, request a status report from the Applicant consisting of information and updates relevant to the status of the project. Status reports shall not be requested more than twice yearly.

(f) In order to demonstrate sufficient evidence of reviewable progress within 12 months after the date the Applicant received notification of allocation from the Division, the Director may require the Applicant to provide all of the following:

(1) a viable financial plan which demonstrates by way of an executed agreement that all financing has been secured for the project; such financing shall include, but not be limited to, equity investment as demonstrated by letters of commitment from the owner of the property, investment partners, and equity investors;

(2) (blank); and

(3) all historic approvals, including all federal and State rehabilitation documents required by the Division.

The Director shall review the submitted evidence and may request additional documentation from the Applicant if necessary. The Applicant will have 30 calendar days to provide the information requested, otherwise the allocation may be rescinded at the discretion of the Director.

(g) In order to demonstrate sufficient evidence of

reviewable progress within 24 months after the date the application received notification of approval from the Division, the Director may require the Applicant to provide detailed evidence that the Applicant has secured and closed on financing for the complete scope of rehabilitation for the project. To demonstrate evidence that the Applicant has secured and closed on financing, the Applicant will need to provide signed and processed loan agreements, bank financing documents or other legal and contractual evidence to demonstrate that adequate financing is available to complete the project. The Director shall review the submitted evidence and may request additional documentation from the Applicant if necessary. The Applicant will have 30 calendar days to provide the information requested, otherwise the allocation may be rescinded at the discretion of the Director.

If the Applicant fails to document reviewable progress within 24 months of approval, the Director may notify the Applicant that the allocation is rescinded. However, should financing and construction be imminent, the Director may elect to grant the Applicant no more than 5 months to close on financing and commence construction. If the Applicant fails to meet these conditions in the required timeframe, the Director shall notify the Applicant that the allocation is rescinded. Any such rescinded allocation shall be added to the aggregate amount of credits available for allocation for the year in which the forfeiture occurred.



The amount of the qualified expenditures identified in the qualified taxpayer's certification of completion and reflected on the Historic Preservation Tax Credit certificate issued by the Director is subject to inspection, examination, and audit by the Department of Revenue.

The qualified taxpayer shall establish and maintain for a period of 4 years following the effective date on a project tax credit certificate such records as required by the Director. Such records include, but are not limited to, records documenting project expenditures and compliance with the U.S. Secretary of the Interior's Standards. The qualified taxpayer shall make such records available for review and verification by the Director, the State Historic Preservation Officer, the Department of Revenue, or appropriate staff, as well as other appropriate State agencies. In the event the Director determines an Applicant has submitted a status report containing erroneous information or data not supported by records established and maintained under this Act, the Director may, after providing notice, require the Applicant to resubmit corrected reports.

(Source: P.A. 102-741, eff. 5-6-22.)

#### ARTICLE 45. HIGH IMPACT BUSINESSES

Section 45-5. The Illinois Enterprise Zone Act is amended by changing Section 5.5 as follows:

(20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

Sec. 5.5. High Impact Business.

(a) In order to respond to unique opportunities to assist in the encouragement, development, growth, and expansion of the private sector through large scale investment and development projects, the Department is authorized to receive and approve applications for the designation of "High Impact Businesses" in Illinois, for an initial term of 20 years with an option for renewal for a term not to exceed 20 years, subject to the following conditions:

(1) such applications may be submitted at any time during the year;

(2) such business is not located, at the time of designation, in an enterprise zone designated pursuant to this Act;

(3) the business intends to do one or more of the following:

(A) the business intends to make a minimum investment of \$12,000,000 which will be placed in service in qualified property and intends to create 500 full-time equivalent jobs at a designated location in Illinois or intends to make a minimum investment of \$30,000,000 which will be placed in service in qualified property and intends to retain 1,500 full-time retained jobs at a designated location in

Illinois. The terms "placed in service" and "qualified property" have the same meanings as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B) the business intends to establish a new electric generating facility at a designated location in Illinois. "New electric generating facility", for purposes of this Section, means a newly constructed electric generation plant or a newly constructed generation capacity expansion at an existing electric generation plant, including the transmission lines and associated equipment that transfers electricity from points of supply to points of delivery, and for which such new foundation construction commenced not sooner than July 1, 2001. Such facility shall be designed to provide baseload electric generation and shall operate on a continuous basis throughout the year; and (i) shall have an aggregate rated generating capacity of at least 1,000 megawatts for all new units at one site if it uses natural gas as its primary fuel and foundation construction of the facility is commenced on or before December 31, 2004, or shall have an aggregate rated generating capacity of at least 400 megawatts for all new units at one site if it uses coal or gases derived from coal as its primary fuel and shall support the creation of at least 150 new

Illinois coal mining jobs, or (ii) shall be funded through a federal Department of Energy grant before December 31, 2010 and shall support the creation of Illinois coal-mining jobs, or (iii) shall use coal gasification or integrated gasification-combined cycle units that generate electricity or chemicals, or both, and shall support the creation of Illinois coal-mining jobs. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B-5) the business intends to establish a new gasification facility at a designated location in Illinois. As used in this Section, "new gasification facility" means a newly constructed coal gasification facility that generates chemical feedstocks or transportation fuels derived from coal (which may include, but are not limited to, methane, methanol, and nitrogen fertilizer), that supports the creation or retention of Illinois coal-mining jobs, and that qualifies for financial assistance from the Department before December 31, 2010. A new gasification facility does not include a pilot project located within Jefferson County or within a county adjacent to Jefferson County for synthetic natural gas from coal; or

(C) the business intends to establish production

operations at a new coal mine, re-establish production operations at a closed coal mine, or expand production at an existing coal mine at a designated location in Illinois not sooner than July 1, 2001; provided that the production operations result in the creation of 150 new Illinois coal mining jobs as described in subdivision (a)(3)(B) of this Section, and further provided that the coal extracted from such mine is utilized as the predominant source for a new electric generating facility. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(D) the business intends to construct new transmission facilities or upgrade existing transmission facilities at designated locations in Illinois, for which construction commenced not sooner than July 1, 2001. For the purposes of this Section, "transmission facilities" means transmission lines with a voltage rating of 115 kilovolts or above, including associated equipment, that transfer electricity from points of supply to points of delivery and that transmit a majority of the electricity generated by a new electric generating facility designated as a High Impact Business in accordance with this Section. The term "placed in service" has the same meaning as described in

subsection (h) of Section 201 of the Illinois Income Tax Act; or

(E) the business intends to establish a new wind power facility at a designated location in Illinois. For purposes of this Section, "new wind power facility" means a newly constructed electric generation facility, a newly constructed expansion of an existing electric generation facility, or the replacement of an existing electric generation facility, including the demolition and removal of an electric generation facility irrespective of whether it will be replaced, placed in service or replaced on or after July 1, 2009, that generates electricity using wind energy devices, and such facility shall be deemed to include any permanent structures associated with the electric generation facility and all associated transmission lines, substations, and other equipment related to the generation of electricity from wind energy devices. For purposes of this Section, "wind energy device" means any device, with a nameplate capacity of at least 0.5 megawatts, that is used in the process of converting kinetic energy from the wind to generate electricity; or

(E-5) the business intends to establish a new utility-scale solar facility at a designated location in Illinois. For purposes of this Section, "new

utility-scale solar power facility" means a newly constructed electric generation facility, or a newly constructed expansion of an existing electric generation facility, placed in service on or after July 1, 2021, that (i) generates electricity using photovoltaic cells and (ii) has a nameplate capacity that is greater than 5,000 kilowatts, and such facility shall be deemed to include all associated transmission lines, substations, energy storage facilities, and other equipment related to the generation and storage of electricity from photovoltaic cells; or

(F) the business commits to (i) make a minimum investment of \$500,000,000, which will be placed in service in a qualified property, (ii) create 125 full-time equivalent jobs at a designated location in Illinois, (iii) establish a fertilizer plant at a designated location in Illinois that complies with the set-back standards as described in Table 1: Initial Isolation and Protective Action Distances in the 2012 Emergency Response Guidebook published by the United States Department of Transportation, (iv) pay a prevailing wage for employees at that location who are engaged in construction activities, and (v) secure an appropriate level of general liability insurance to protect against catastrophic failure of the fertilizer

plant or any of its constituent systems; in addition, the business must agree to enter into a construction project labor agreement including provisions establishing wages, benefits, and other compensation for employees performing work under the project labor agreement at that location; for the purposes of this Section, "fertilizer plant" means a newly constructed or upgraded plant utilizing gas used in the production of anhydrous ammonia and downstream nitrogen fertilizer products for resale; for the purposes of this Section, "prevailing wage" means the hourly cash wages plus fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works; this paragraph (F) applies only to businesses that submit an application to the Department within 60 days after July 25, 2013 (the effective date of Public Act 98-109); or ~~and~~

(G) the business intends to establish a new cultured cell material food production facility at a designated location in Illinois. As used in this paragraph (G):



"Cultured cell material food production facility" means a facility (i) at which cultured animal cell food is developed using animal cell culture technology, (ii) at which production processes occur that include the establishment of cell lines and cell banks, manufacturing controls, and all components and inputs, and (iii) that complies with all existing registrations, inspections, licensing, and approvals from all applicable and participating State and federal food agencies, including the Department of Agriculture, the Department of Public Health, and the United States Food and Drug Administration, to ensure that all food production is safe and lawful under provisions of the Federal Food, Drug and Cosmetic Act related to the development, production, and storage of cultured animal cell food.

"New cultured cell material food production facility" means a newly constructed cultured cell material food production facility that is placed in service on or after the effective date of this amendatory Act of the 103rd General Assembly or a newly constructed expansion of an existing cultured cell material food production facility, in a controlled environment, when the improvements are placed in service on or after the effective date of this amendatory Act of the 103rd General Assembly; and

(4) no later than 90 days after an application is submitted, the Department shall notify the applicant of the Department's determination of the qualification of the proposed High Impact Business under this Section.

(b) Businesses designated as High Impact Businesses pursuant to subdivision (a)(3)(A) of this Section shall qualify for the credits and exemptions described in the following Acts: Section 9-222 and Section 9-222.1A of the Public Utilities Act, subsection (h) of Section 201 of the Illinois Income Tax Act, and Section 1d of the Retailers' Occupation Tax Act; provided that these credits and exemptions described in these Acts shall not be authorized until the minimum investments set forth in subdivision (a)(3)(A) of this Section have been placed in service in qualified properties and, in the case of the exemptions described in the Public Utilities Act and Section 1d of the Retailers' Occupation Tax Act, the minimum full-time equivalent jobs or full-time retained jobs set forth in subdivision (a)(3)(A) of this Section have been created or retained. Businesses designated as High Impact Businesses under this Section shall also qualify for the exemption described in Section 51 of the Retailers' Occupation Tax Act. The credit provided in subsection (h) of Section 201 of the Illinois Income Tax Act shall be applicable to investments in qualified property as set forth in subdivision (a)(3)(A) of this Section.

(b-5) Businesses designated as High Impact Businesses

pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C), ~~and~~ (a)(3)(D), and (a)(3)(G) of this Section shall qualify for the credits and exemptions described in the following Acts: Section 51 of the Retailers' Occupation Tax Act, Section 9-222 and Section 9-222.1A of the Public Utilities Act, and subsection (h) of Section 201 of the Illinois Income Tax Act; however, the credits and exemptions authorized under Section 9-222 and Section 9-222.1A of the Public Utilities Act, and subsection (h) of Section 201 of the Illinois Income Tax Act shall not be authorized until the new electric generating facility, the new gasification facility, the new transmission facility, ~~or~~ the new, expanded, or reopened coal mine, or the new cultured cell material food production facility is operational, except that a new electric generating facility whose primary fuel source is natural gas is eligible only for the exemption under Section 51 of the Retailers' Occupation Tax Act.

(b-6) Businesses designated as High Impact Businesses pursuant to subdivision (a)(3)(E) or (a)(3)(E-5) of this Section shall qualify for the exemptions described in Section 51 of the Retailers' Occupation Tax Act; any business so designated as a High Impact Business being, for purposes of this Section, a "Wind Energy Business".

(b-7) Beginning on January 1, 2021, businesses designated as High Impact Businesses by the Department shall qualify for the High Impact Business construction jobs credit under

subsection (h-5) of Section 201 of the Illinois Income Tax Act if the business meets the criteria set forth in subsection (i) of this Section. The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not exceed \$20,000,000 in any State fiscal year.

(c) High Impact Businesses located in federally designated foreign trade zones or sub-zones are also eligible for additional credits, exemptions and deductions as described in the following Acts: Section 9-221 and Section 9-222.1 of the Public Utilities Act; and subsection (g) of Section 201, and Section 203 of the Illinois Income Tax Act.

(d) Except for businesses contemplated under subdivision (a) (3) (E), ~~or~~ (a) (3) (E-5), or (a) (3) (G) of this Section, existing Illinois businesses which apply for designation as a High Impact Business must provide the Department with the prospective plan for which 1,500 full-time retained jobs would be eliminated in the event that the business is not designated.

(e) Except for new businesses ~~wind power facilities~~ contemplated under subdivision (a) (3) (E) or subdivision (a) (3) (G) of this Section, new proposed facilities which apply for designation as High Impact Business must provide the Department with proof of alternative non-Illinois sites which would receive the proposed investment and job creation in the event that the business is not designated as a High Impact Business.

(f) Except for businesses contemplated under subdivision (a)(3)(E) or subdivision (a)(3)(G) of this Section, in the event that a business is designated a High Impact Business and it is later determined after reasonable notice and an opportunity for a hearing as provided under the Illinois Administrative Procedure Act, that the business would have placed in service in qualified property the investments and created or retained the requisite number of jobs without the benefits of the High Impact Business designation, the Department shall be required to immediately revoke the designation and notify the Director of the Department of Revenue who shall begin proceedings to recover all wrongfully exempted State taxes with interest. The business shall also be ineligible for all State funded Department programs for a period of 10 years.

(g) The Department shall revoke a High Impact Business designation if the participating business fails to comply with the terms and conditions of the designation.

(h) Prior to designating a business, the Department shall provide the members of the General Assembly and Commission on Government Forecasting and Accountability with a report setting forth the terms and conditions of the designation and guarantees that have been received by the Department in relation to the proposed business being designated.

(i) High Impact Business construction jobs credit. Beginning on January 1, 2021, a High Impact Business may

receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an amount equal to 50% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees employed in the course of completing a High Impact Business construction jobs project. However, the High Impact Business construction jobs credit may equal 75% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees if the High Impact Business construction jobs credit project is located in an underserved area.

The Department shall certify to the Department of Revenue: (1) the identity of taxpayers that are eligible for the High Impact Business construction jobs credit; and (2) the amount of High Impact Business construction jobs credits that are claimed pursuant to subsection (h-5) of Section 201 of the Illinois Income Tax Act in each taxable year. Any business entity that receives a High Impact Business construction jobs credit shall maintain a certified payroll pursuant to subsection (j) of this Section.

As used in this subsection (i):

"High Impact Business construction jobs credit" means an amount equal to 50% (or 75% if the High Impact Business construction project is located in an underserved area) of the incremental income tax attributable to High Impact Business construction job employees. The total aggregate amount of

credits awarded under the Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not exceed \$20,000,000 in any State fiscal year

"High Impact Business construction job employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a High Impact Business construction job project.

"High Impact Business construction jobs project" means building a structure or building or making improvements of any kind to real property, undertaken and commissioned by a business that was designated as a High Impact Business by the Department. The term "High Impact Business construction jobs project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of High Impact Business construction job employees.

"Underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest American Community Survey;

(2) 35% or more of the families with children in the area are living below 130% of the poverty line, according to the latest American Community Survey;

(3) at least 20% of the households in the area receive

assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

(j) Each contractor and subcontractor who is engaged in and executing a High Impact Business Construction jobs project, as defined under subsection (i) of this Section, for a business that is entitled to a credit pursuant to subsection (i) of this Section shall:

(1) make and keep, for a period of 5 years from the date of the last payment made on or after June 5, 2019 (the effective date of Public Act 101-9) on a contract or subcontract for a High Impact Business Construction Jobs Project, records for all laborers and other workers employed by the contractor or subcontractor on the project; the records shall include:

- (A) the worker's name;
- (B) the worker's address;
- (C) the worker's telephone number, if available;
- (D) the worker's social security number;
- (E) the worker's classification or classifications;



(F) the worker's gross and net wages paid in each pay period;

(G) the worker's number of hours worked each day;

(H) the worker's starting and ending times of work each day;

(I) the worker's hourly wage rate;

(J) the worker's hourly overtime wage rate;

(K) the worker's race and ethnicity; and

(L) the worker's gender;

(2) no later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the High Impact Business construction jobs project; within 5 business days after receiving the certified payroll, the taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity; a certified payroll must be filed for only those calendar months during which construction on a High Impact Business construction jobs project has occurred; the certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (j), but may exclude the starting and ending times of work each day; the certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that:

(A) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; and

(B) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.

A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification.

Any contractor or subcontractor subject to this subsection, and any officer, employee, or agent of such contractor or subcontractor whose duty as an officer, employee, or agent it is to file a certified payroll under this subsection, who willfully fails to file such a certified payroll on or before the date such certified payroll is required by this paragraph to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor.

The taxpayer in charge of the project shall keep the records submitted in accordance with this subsection on or after June 5, 2019 (the effective date of Public Act 101-9) for a period of 5 years from the date of the last payment for work on a contract or subcontract for the High Impact Business construction jobs project.

The records submitted in accordance with this subsection shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The Department of Labor shall share the information with the Department in order to comply with the awarding of a High Impact Business construction jobs credit. A contractor, subcontractor, or public body may retain records required under this Section in paper or electronic format.

(k) Upon 7 business days' notice, each contractor and subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in this subsection (j) to the taxpayer in charge of the High Impact Business construction jobs project, its officers and agents, the Director of the Department of Labor and his or her deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

(l) The changes made to this Section by this amendatory Act of the 102nd General Assembly, other than the changes in subsection (a), apply to high impact businesses that submit applications on or after the effective date of this amendatory Act of the 102nd General Assembly.

(Source: P.A. 101-9, eff. 6-5-19; 102-108, eff. 1-1-22; 102-558, eff. 8-20-21; 102-605, eff. 8-27-21; 102-662, eff. 9-15-21; 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1125, eff. 2-3-23.)

Section 45-10. The Economic Development for a Growing Economy Tax Credit Act is amended by changing Sections 5-5 and 5-15 as follows:

(35 ILCS 10/5-5)

Sec. 5-5. Definitions. As used in this Act:

"Agreement" means the Agreement between a Taxpayer and the Department under the provisions of Section 5-50 of this Act.

"Applicant" means a Taxpayer that is operating a business located or that the Taxpayer plans to locate within the State of Illinois and that is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, assembling, warehousing, or distributing products, conducting research and development, providing tourism services, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, retail food, health, or professional services. "Applicant" does not include a Taxpayer who closes or substantially reduces an operation at one location in the State and relocates substantially the same operation to another location in the State. This does not prohibit a Taxpayer from expanding its operations at another location in the State, provided that existing operations of a similar nature located within the State are not closed or substantially reduced. This also does not prohibit a Taxpayer from moving its operations from one location in the State to

another location in the State for the purpose of expanding the operation provided that the Department determines that expansion cannot reasonably be accommodated within the municipality in which the business is located, or in the case of a business located in an incorporated area of the county, within the county in which the business is located, after conferring with the chief elected official of the municipality or county and taking into consideration any evidence offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county.

"Credit" means the amount agreed to between the Department and Applicant under this Act, but not to exceed the lesser of: (1) the sum of (i) 50% of the Incremental Income Tax attributable to New Employees at the Applicant's project and (ii) 10% of the training costs of New Employees; or (2) 100% of the Incremental Income Tax attributable to New Employees at the Applicant's project. However, if the project is located in an underserved area, then the amount of the Credit may not exceed the lesser of: (1) the sum of (i) 75% of the Incremental Income Tax attributable to New Employees at the Applicant's project and (ii) 10% of the training costs of New Employees; or (2) 100% of the Incremental Income Tax attributable to New Employees at the Applicant's project. If the project is not located in an underserved area and the Applicant agrees to hire the required number of New Employees, then the maximum amount of the Credit for that Applicant may be increased by an

amount not to exceed 25% of the Incremental Income Tax attributable to retained employees at the Applicant's project. If the project is located in an underserved area and the Applicant agrees to hire the required number of New Employees, then the maximum amount of the credit for that Applicant may be increased by an amount not to exceed 50% of the Incremental Income Tax attributable to retained employees at the Applicant's project.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Full-time Employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the Applicant for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment to Applicant.

"Incremental Income Tax" means the total amount withheld during the taxable year from the compensation of New Employees and, if applicable, retained employees under Article 7 of the Illinois Income Tax Act arising from employment at a project

that is the subject of an Agreement.

"New Construction EDGE Agreement" means the Agreement between a Taxpayer and the Department under the provisions of Section 5-51 of this Act.

"New Construction EDGE Credit" means an amount agreed to between the Department and the Applicant under this Act as part of a New Construction EDGE Agreement that does not exceed 50% of the Incremental Income Tax attributable to New Construction EDGE Employees at the Applicant's project; however, if the New Construction EDGE Project is located in an underserved area, then the amount of the New Construction EDGE Credit may not exceed 75% of the Incremental Income Tax attributable to New Construction EDGE Employees at the Applicant's New Construction EDGE Project.

"New Construction EDGE Employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a New Construction EDGE Project, pursuant to a New Construction EDGE Agreement.

"New Construction EDGE Incremental Income Tax" means the total amount withheld during the taxable year from the compensation of New Construction EDGE Employees.

"New Construction EDGE Project" means the building of a Taxpayer's structure or building, or making improvements of any kind to real property. "New Construction EDGE Project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real

property.

"New Employee" means:

(a) A Full-time Employee first employed by a Taxpayer in the project that is the subject of an Agreement and who is hired after the Taxpayer enters into the tax credit Agreement.

(b) The term "New Employee" does not include:

(1) an employee of the Taxpayer who performs a job that was previously performed by another employee, if that job existed for at least 6 months before hiring the employee;

(2) an employee of the Taxpayer who was previously employed in Illinois by a Related Member of the Taxpayer and whose employment was shifted to the Taxpayer after the Taxpayer entered into the tax credit Agreement; or

(3) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the Taxpayer.

(c) Notwithstanding paragraph (1) of subsection (b), an employee may be considered a New Employee under the Agreement if the employee performs a job that was previously performed by an employee who was:

(1) treated under the Agreement as a New Employee;



and

(2) promoted by the Taxpayer to another job.

(d) Notwithstanding subsection (a), the Department may award Credit to an Applicant with respect to an employee hired prior to the date of the Agreement if:

(1) the Applicant is in receipt of a letter from the Department stating an intent to enter into a credit Agreement;

(2) the letter described in paragraph (1) is issued by the Department not later than 15 days after the effective date of this Act; and

(3) the employee was hired after the date the letter described in paragraph (1) was issued.

"Noncompliance Date" means, in the case of a Taxpayer that is not complying with the requirements of the Agreement or the provisions of this Act, the day following the last date upon which the Taxpayer was in compliance with the requirements of the Agreement and the provisions of this Act, as determined by the Director, pursuant to Section 5-65.

"Pass Through Entity" means an entity that is exempt from the tax under subsection (b) or (c) of Section 205 of the Illinois Income Tax Act.

"Professional Employer Organization" (PEO) means an employee leasing company, as defined in Section 206.1(A)(2) of the Illinois Unemployment Insurance Act.

"Related Member" means a person that, with respect to the

Taxpayer during any portion of the taxable year, is any one of the following:

(1) An individual stockholder, if the stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the Taxpayer's outstanding stock.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the Taxpayer.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the Taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of

Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the Taxpayer.

(5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a Related Member under this paragraph, 20% shall be substituted for 5% wherever 5% appears in Section 1563(e) of the Internal Revenue Code.

"Startup taxpayer" means, for Agreements that are executed before the effective date of the changes made to this Section by this amendatory Act of the 103rd General Assembly, a corporation, partnership, or other entity incorporated or organized no more than 5 years before the filing of an application for an Agreement that has never had any Illinois income tax liability, excluding any Illinois income tax liability of a Related Member which shall not be attributed to the startup taxpayer. "Startup taxpayer" means, for Agreements that are executed on or after the effective date of this amendatory Act of the 103rd General Assembly, a corporation, partnership, or other entity that is incorporated or organized no more than 10 years before the filing of an application for an Agreement and that has never had any Illinois income tax liability. For the purpose of determining whether the taxpayer has had any Illinois income tax liability, the Illinois income

tax liability of a Related Member shall not be attributed to the startup taxpayer.

"Taxpayer" means an individual, corporation, partnership, or other entity that has any Illinois Income Tax liability.

Until July 1, 2022, "underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest federal decennial census;

(2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

On and after July 1, 2022, "underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest American Community Survey;

(2) 35% or more of the families with children in the

area are living below 130% of the poverty line, according to the latest American Community Survey;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

(Source: P.A. 101-9, eff. 6-5-19; 102-330, eff. 1-1-22; 102-700, eff. 4-19-22; 102-1125, eff. 2-3-23.)

(35 ILCS 10/5-15)

Sec. 5-15. Tax Credit Awards. Subject to the conditions set forth in this Act, a Taxpayer is entitled to a Credit against or, as described in subsection (g) of this Section, a payment towards taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act that may be imposed on the Taxpayer for a taxable year beginning on or after January 1, 1999, if the Taxpayer is awarded a Credit by the Department under this Act for that taxable year.

(a) The Department shall make Credit awards under this Act to foster job creation and retention in Illinois.

(b) A person that proposes a project to create new jobs in

Illinois must enter into an Agreement with the Department for the Credit under this Act.

(c) The Credit shall be claimed for the taxable years specified in the Agreement.

(d) The Credit shall not exceed the Incremental Income Tax attributable to the project that is the subject of the Agreement.

(e) Nothing herein shall prohibit a Tax Credit Award to an Applicant that uses a PEO if all other award criteria are satisfied.

(f) In lieu of the Credit allowed under this Act against the taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act for any taxable year ending on or after December 31, 2009, for Taxpayers that entered into Agreements prior to January 1, 2015 and otherwise meet the criteria set forth in this subsection (f), the Taxpayer may elect to claim the Credit against its obligation to pay over withholding under Section 704A of the Illinois Income Tax Act.

(1) The election under this subsection (f) may be made only by a Taxpayer that (i) is primarily engaged in one of the following business activities: water purification and treatment, motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck

manufacturing, motor vehicle body manufacturing, cable television infrastructure design or manufacturing, or wireless telecommunication or computing terminal device design or manufacturing for use on public networks and (ii) meets the following criteria:

(A) the Taxpayer (i) had an Illinois net loss or an Illinois net loss deduction under Section 207 of the Illinois Income Tax Act for the taxable year in which the Credit is awarded, (ii) employed a minimum of 1,000 full-time employees in this State during the taxable year in which the Credit is awarded, (iii) has an Agreement under this Act on December 14, 2009 (the effective date of Public Act 96-834), and (iv) is in compliance with all provisions of that Agreement;

(B) the Taxpayer (i) had an Illinois net loss or an Illinois net loss deduction under Section 207 of the Illinois Income Tax Act for the taxable year in which the Credit is awarded, (ii) employed a minimum of 1,000 full-time employees in this State during the taxable year in which the Credit is awarded, and (iii) has applied for an Agreement within 365 days after December 14, 2009 (the effective date of Public Act 96-834);

(C) the Taxpayer (i) had an Illinois net operating loss carryforward under Section 207 of the Illinois Income Tax Act in a taxable year ending during

calendar year 2008, (ii) has applied for an Agreement within 150 days after the effective date of this amendatory Act of the 96th General Assembly, (iii) creates at least 400 new jobs in Illinois, (iv) retains at least 2,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and (v) makes a capital investment of at least \$75,000,000;

(D) the Taxpayer (i) had an Illinois net operating loss carryforward under Section 207 of the Illinois Income Tax Act in a taxable year ending during calendar year 2009, (ii) has applied for an Agreement within 150 days after the effective date of this amendatory Act of the 96th General Assembly, (iii) creates at least 150 new jobs, (iv) retains at least 1,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and (v) makes a capital investment of at least \$57,000,000; or

(E) the Taxpayer (i) employed at least 2,500 full-time employees in the State during the year in which the Credit is awarded, (ii) commits to make at least \$500,000,000 in combined capital improvements and project costs under the Agreement, (iii) applies for an Agreement between January 1, 2011 and June 30, 2011, (iv) executes an Agreement for the Credit during



calendar year 2011, and (v) was incorporated no more than 5 years before the filing of an application for an Agreement.

(1.5) The election under this subsection (f) may also be made by a Taxpayer for any Credit awarded pursuant to an agreement that was executed between January 1, 2011 and June 30, 2011, if the Taxpayer (i) is primarily engaged in the manufacture of inner tubes or tires, or both, from natural and synthetic rubber, (ii) employs a minimum of 2,400 full-time employees in Illinois at the time of application, (iii) creates at least 350 full-time jobs and retains at least 250 full-time jobs in Illinois that would have been at risk of being created or retained outside of Illinois, and (iv) makes a capital investment of at least \$200,000,000 at the project location.

(1.6) The election under this subsection (f) may also be made by a Taxpayer for any Credit awarded pursuant to an agreement that was executed within 150 days after the effective date of this amendatory Act of the 97th General Assembly, if the Taxpayer (i) is primarily engaged in the operation of a discount department store, (ii) maintains its corporate headquarters in Illinois, (iii) employs a minimum of 4,250 full-time employees at its corporate headquarters in Illinois at the time of application, (iv) retains at least 4,250 full-time jobs in Illinois that would have been at risk of being relocated outside of

Illinois, (v) had a minimum of \$40,000,000,000 in total revenue in 2010, and (vi) makes a capital investment of at least \$300,000,000 at the project location.

(1.7) Notwithstanding any other provision of law, the election under this subsection (f) may also be made by a Taxpayer for any Credit awarded pursuant to an agreement that was executed or applied for on or after July 1, 2011 and on or before March 31, 2012, if the Taxpayer is primarily engaged in the manufacture of original and aftermarket filtration parts and products for automobiles, motor vehicles, light duty motor vehicles, light trucks and utility vehicles, and heavy duty trucks, (ii) employs a minimum of 1,000 full-time employees in Illinois at the time of application, (iii) creates at least 250 full-time jobs in Illinois, (iv) relocates its corporate headquarters to Illinois from another state, and (v) makes a capital investment of at least \$4,000,000 at the project location.

(1.8) Notwithstanding any other provision of law, the election under this subsection (f) may also be made by a startup taxpayer for any Credit awarded pursuant to an Agreement that was executed ~~or applied for~~ on or after the effective date of this amendatory Act of the 102nd General Assembly, ~~if the startup taxpayer, without considering any Related Member or other investor,~~ (i) ~~has never had any Illinois income tax liability and~~ (ii) ~~was incorporated no~~

~~more than 5 years before the filing of an application for an Agreement.~~ Any such election under this paragraph (1.8) shall be effective unless and until such startup taxpayer has any Illinois income tax liability. This election under this paragraph (1.8) shall automatically terminate when the startup taxpayer has any Illinois income tax liability at the end of any taxable year during the term of the Agreement. Thereafter, the startup taxpayer may receive a Credit, taking into account any benefits previously enjoyed or received by way of the election under this paragraph (1.8), so long as the startup taxpayer remains in compliance with the terms and conditions of the Agreement.

(2) An election under this subsection shall allow the credit to be taken against payments otherwise due under Section 704A of the Illinois Income Tax Act during the first calendar ~~quarter~~ year beginning after the end of the taxable ~~quarter~~ year in which the credit is awarded under this Act.

(3) The election shall be made in the form and manner required by the Illinois Department of Revenue and, once made, shall be irrevocable.

(4) If a Taxpayer who meets the requirements of subparagraph (A) of paragraph (1) of this subsection (f) elects to claim the Credit against its withholdings as provided in this subsection (f), then, on and after the

date of the election, the terms of the Agreement between the Taxpayer and the Department may not be further amended during the term of the Agreement.

(g) A pass-through entity that has been awarded a credit under this Act, its shareholders, or its partners may treat some or all of the credit awarded pursuant to this Act as a tax payment for purposes of the Illinois Income Tax Act. The term "tax payment" means a payment as described in Article 6 or Article 8 of the Illinois Income Tax Act or a composite payment made by a pass-through entity on behalf of any of its shareholders or partners to satisfy such shareholders' or partners' taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act. In no event shall the amount of the award credited pursuant to this Act exceed the Illinois income tax liability of the pass-through entity or its shareholders or partners for the taxable year.

(Source: P.A. 102-700, eff. 4-19-22.)

Section 45-15. The Public Utilities Act is amended by changing Section 9-222.1A as follows:

(220 ILCS 5/9-222.1A)

Sec. 9-222.1A. High impact business. Beginning on August 1, 1998 and thereafter, a business enterprise that is certified as a High Impact Business by the Department of Commerce and Economic Opportunity (formerly Department of

Commerce and Community Affairs) is exempt from the tax imposed by Section 2-4 of the Electricity Excise Tax Law, if the High Impact Business is registered to self-assess that tax, and is exempt from any additional charges added to the business enterprise's utility bills as a pass-on of State utility taxes under Section 9-222 of this Act, to the extent the tax or charges are exempted by the percentage specified by the Department of Commerce and Economic Opportunity for State utility taxes, provided the business enterprise meets the following criteria:

(1) (A) it intends either (i) to make a minimum eligible investment of \$12,000,000 that will be placed in service in qualified property in Illinois and is intended to create at least 500 full-time equivalent jobs at a designated location in Illinois; or (ii) to make a minimum eligible investment of \$30,000,000 that will be placed in service in qualified property in Illinois and is intended to retain at least 1,500 full-time equivalent jobs at a designated location in Illinois; or

(B) it meets the criteria of subdivision (a) (3) (B), (a) (3) (C), (a) (3) (D), ~~or~~ (a) (3) (F), or (a) (3) (G) of Section 5.5 of the Illinois Enterprise Zone Act;

(2) it is designated as a High Impact Business by the Department of Commerce and Economic Opportunity; and

(3) it is certified by the Department of Commerce and Economic Opportunity as complying with the requirements specified in clauses (1) and (2) of this Section.

The Department of Commerce and Economic Opportunity shall determine the period during which the exemption from the Electricity Excise Tax Law and the charges imposed under Section 9-222 are in effect and shall specify the percentage of the exemption from those taxes or additional charges.

The Department of Commerce and Economic Opportunity is authorized to promulgate rules and regulations to carry out the provisions of this Section, including procedures for complying with the requirements specified in clauses (1) and (2) of this Section and procedures for applying for the exemptions authorized under this Section; to define the amounts and types of eligible investments that business enterprises must make in order to receive State utility tax exemptions or exemptions from the additional charges imposed under Section 9-222 and this Section; to approve such utility tax exemptions for business enterprises whose investments are not yet placed in service; and to require that business enterprises granted tax exemptions or exemptions from additional charges under Section 9-222 repay the exempted amount if the business enterprise fails to comply with the terms and conditions of the certification.

Upon certification of the business enterprises by the Department of Commerce and Economic Opportunity, the

Department of Commerce and Economic Opportunity shall notify the Department of Revenue of the certification. The Department of Revenue shall notify the public utilities of the exemption status of business enterprises from the tax or pass-on charges of State utility taxes. The exemption status shall take effect within 3 months after certification of the business enterprise.

(Source: P.A. 102-1125, eff. 2-3-23.)

#### ARTICLE 50. INVESTMENT PARTNERSHIPS

Section 50-5. The Illinois Income Tax Act is amended by changing Sections 709.5 and 1501 as follows:

(35 ILCS 5/709.5)

Sec. 709.5. Withholding by partnerships, Subchapter S corporations, and trusts.

(a) In general. For each taxable year ending on or after December 31, 2008, every partnership (other than a publicly traded partnership under Section 7704 of the Internal Revenue Code or investment partnership), Subchapter S corporation, and trust must withhold from each nonresident partner, shareholder, or beneficiary (other than a partner, shareholder, or beneficiary who is exempt from tax under Section 501(a) of the Internal Revenue Code or under Section 205 of this Act, who is included on a composite return filed by

the partnership or Subchapter S corporation for the taxable year under subsection (f) of Section 502 of this Act), or who is a retired partner, to the extent that partner's distributions are exempt from tax under Section 203(a)(2)(F) of this Act) an amount equal to the sum of (i) the share of business income of the partnership, Subchapter S corporation, or trust apportionable to Illinois plus (ii) for taxable years ending on or after December 31, 2014, the share of nonbusiness income of the partnership, Subchapter S corporation, or trust allocated to Illinois under Section 303 of this Act (other than an amount allocated to the commercial domicile of the taxpayer under Section 303 of this Act) that is distributable to that partner, shareholder, or beneficiary under Sections 702 and 704 and Subchapter S of the Internal Revenue Code, whether or not distributed, (iii) multiplied by the applicable rates of tax for that partner, shareholder, or beneficiary under subsections (a) through (d) of Section 201 of this Act, and (iv) net of the share of any credit under Article 2 of this Act that is distributable by the partnership, Subchapter S corporation, or trust and allowable against the tax liability of that partner, shareholder, or beneficiary for a taxable year ending on or after December 31, 2014.

(b) Credit for taxes withheld. Any amount withheld under subsection (a) of this Section and paid to the Department shall be treated as a payment of the estimated tax liability or of the liability for withholding under this Section of the



partner, shareholder, or beneficiary to whom the income is distributable for the taxable year in which that person incurred a liability under this Act with respect to that income. The Department shall adopt rules pursuant to which a partner, shareholder, or beneficiary may claim a credit against its obligation for withholding under this Section for amounts withheld under this Section with respect to income distributable to it by a partnership, Subchapter S corporation, or trust and allowing its partners, shareholders, or beneficiaries to claim a credit under this subsection (b) for those withheld amounts.

(c) Exemption from withholding.

(1) A partnership, Subchapter S corporation, or trust shall not be required to withhold tax under subsection (a) of this Section with respect to any nonresident partner, shareholder, or beneficiary (other than an individual) from whom the partnership, S corporation, or trust has received a certificate, completed in the form and manner prescribed by the Department, stating that such nonresident partner, shareholder, or beneficiary shall:

(A) file all returns that the partner, shareholder, or beneficiary is required to file under Section 502 of this Act and make timely payment of all taxes imposed under Section 201 of this Act or under this Section on the partner, shareholder, or beneficiary with respect to income of the partnership,

S corporation, or trust; and

(B) be subject to personal jurisdiction in this State for purposes of the collection of income taxes, together with related interest and penalties, imposed on the partner, shareholder, or beneficiary with respect to the income of the partnership, S corporation, or trust.

(2) The Department may revoke the exemption provided by this subsection (c) at any time that it determines that the nonresident partner, shareholder, or beneficiary is not abiding by the terms of the certificate. The Department shall notify the partnership, S corporation, or trust that it has revoked a certificate by notice left at the usual place of business of the partnership, S corporation, or trust or by mail to the last known address of the partnership, S corporation, or trust.

(3) A partnership, S corporation, or trust that receives a certificate under this subsection (c) properly completed by a nonresident partner, shareholder, or beneficiary shall not be required to withhold any amount from that partner, shareholder, or beneficiary, the payment of which would be due under Section 711(a-5) of this Act after the receipt of the certificate and no earlier than 60 days after the Department has notified the partnership, S corporation, or trust that the certificate has been revoked.

(4) Certificates received by a partnership, S corporation, or trust under this subsection (c) must be retained by the partnership, S corporation, or trust and a record of such certificates must be provided to the Department, in a format in which the record is available for review by the Department, upon request by the Department. The Department may, by rule, require the record of certificates to be maintained and provided to the Department electronically.

(d) For taxable years ending on and after December 31, 2023, every investment partnership, as defined in Section 1501 of this Act, shall withhold from each nonresident partner (other than a partner who is exempt from tax under Section 501(a) of the Internal Revenue Code or under Section 205 of this Act, or who is a retired partner, to the extent that partner's distributions are exempt from tax under Section 203(a)(2)(F) of this Act) an amount calculated as follows:

(1) the sum of (i) the share of income that, but for the provisions of subsection (c-5) of Section 305 of this Act, would be apportioned to Illinois by the investment partnership under subsection (a) of Section 305 of this Act and (ii) the share of nonbusiness income that, but for the provisions of subsection (c-5) of Section 305 of this Act, would be allocated to Illinois by the investment partnership under subsection (b) of Sections 305 and Section 303 of this Act (other than an amount allocated to

the commercial domicile of the taxpayer under Section 303 of this Act) that is distributable to that partner under Sections 702 and 704 of the Internal Revenue Code, whether or not distributed; multiplied by

(2) the applicable rates of tax for that partner under subsections (a) through (d) of Section 201 of this Act (except that, if the partner is a partnership or subchapter S corporation, the rate shall be equal to the rate imposed on individuals under subsection (b) of Section 201 of this Act); and

(3) net of the investment partnership's distributive share of any credit under Article 2 of this Act that is distributable by the partnership and first allowable against the tax liability of that partner for a taxable year ending on or after December 31, 2023.

Except to the extent that the income of the investment partnership is business income in the hands of the partner under subsection (c-5) of Section 305 of this Act, no credit for taxes withheld shall be allowed under subsection (b) of this Section for amounts withheld under this subsection.

The provisions of subsection (c) of this Section, allowing for exemption from withholding, shall not apply for purposes of this subsection.

(Source: P.A. 100-201, eff. 8-18-17.)

(35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

Sec. 1501. Definitions.

(a) In general. When used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) Business income. The term "business income" means all income that may be treated as apportionable business income under the Constitution of the United States. Business income is net of the deductions allocable thereto. Such term does not include compensation or the deductions allocable thereto. For each taxable year beginning on or after January 1, 2003, a taxpayer may elect to treat all income other than compensation as business income. This election shall be made in accordance with rules adopted by the Department and, once made, shall be irrevocable.

(1.5) Captive real estate investment trust:

(A) The term "captive real estate investment trust" means a corporation, trust, or association:

(i) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;

(ii) the certificates of beneficial interest or shares of which are not regularly traded on an established securities market; and

(iii) of which more than 50% of the voting power or value of the beneficial interest or

shares, at any time during the last half of the taxable year, is owned or controlled, directly, indirectly, or constructively, by a single corporation.

(B) The term "captive real estate investment trust" does not include:

(i) a real estate investment trust of which more than 50% of the voting power or value of the beneficial interest or shares is owned or controlled, directly, indirectly, or constructively, by:

(a) a real estate investment trust, other than a captive real estate investment trust;

(b) a person who is exempt from taxation under Section 501 of the Internal Revenue Code, and who is not required to treat income received from the real estate investment trust as unrelated business taxable income under Section 512 of the Internal Revenue Code;

(c) a listed Australian property trust, if no more than 50% of the voting power or value of the beneficial interest or shares of that trust, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single person;

(d) an entity organized as a trust,

provided a listed Australian property trust described in subparagraph (c) owns or controls, directly or indirectly, or constructively, 75% or more of the voting power or value of the beneficial interests or shares of such entity; or

(e) an entity that is organized outside of the laws of the United States and that satisfies all of the following criteria:

(1) at least 75% of the entity's total asset value at the close of its taxable year is represented by real estate assets (as defined in Section 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any real estate investment trust), cash and cash equivalents, and U.S. Government securities;

(2) the entity is not subject to tax on amounts that are distributed to its beneficial owners or is exempt from entity-level taxation;

(3) the entity distributes at least 85% of its taxable income (as computed in the jurisdiction in which it is organized) to the holders of its shares or

certificates of beneficial interest on an annual basis;

(4) either (i) the shares or beneficial interests of the entity are regularly traded on an established securities market or (ii) not more than 10% of the voting power or value in the entity is held, directly, indirectly, or constructively, by a single entity or individual; and

(5) the entity is organized in a country that has entered into a tax treaty with the United States; or

(ii) during its first taxable year for which it elects to be treated as a real estate investment trust under Section 856(c)(1) of the Internal Revenue Code, a real estate investment trust the certificates of beneficial interest or shares of which are not regularly traded on an established securities market, but only if the certificates of beneficial interest or shares of the real estate investment trust are regularly traded on an established securities market prior to the earlier of the due date (including extensions) for filing its return under this Act for that first taxable year or the date it



actually files that return.

(C) For the purposes of this subsection (1.5), the constructive ownership rules prescribed under Section 318(a) of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply in determining the ownership of stock, assets, or net profits of any person.

(D) For the purposes of this item (1.5), for taxable years ending on or after August 16, 2007, the voting power or value of the beneficial interest or shares of a real estate investment trust does not include any voting power or value of beneficial interest or shares in a real estate investment trust held directly or indirectly in a segregated asset account by a life insurance company (as described in Section 817 of the Internal Revenue Code) to the extent such voting power or value is for the benefit of entities or persons who are either immune from taxation or exempt from taxation under subtitle A of the Internal Revenue Code.

(2) Commercial domicile. The term "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) Compensation. The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) Corporation. The term "corporation" includes associations, joint-stock companies, insurance companies and cooperatives. Any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, shall be treated as a corporation if it is so classified for federal income tax purposes.

(5) Department. The term "Department" means the Department of Revenue of this State.

(6) Director. The term "Director" means the Director of Revenue of this State.

(7) Fiduciary. The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, or any person acting in any fiduciary capacity for any person.

(8) Financial organization.

(A) The term "financial organization" means any bank, bank holding company, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, credit union, currency exchange, cooperative bank, small loan company, sales finance company, investment company, or any person which is owned by a bank or bank holding company. For the purpose of this Section a "person" will include only those persons which a bank holding company may acquire and hold an interest in, directly or indirectly, under the provisions of the Bank Holding

Company Act of 1956 (12 U.S.C. 1841, et seq.), except where interests in any person must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.

(B) For purposes of subparagraph (A) of this paragraph, the term "bank" includes (i) any entity that is regulated by the Comptroller of the Currency under the National Bank Act, or by the Federal Reserve Board, or by the Federal Deposit Insurance Corporation and (ii) any federally or State chartered bank operating as a credit card bank.

(C) For purposes of subparagraph (A) of this paragraph, the term "sales finance company" has the meaning provided in the following item (i) or (ii):

(i) A person primarily engaged in one or more of the following businesses: the business of purchasing customer receivables, the business of making loans upon the security of customer receivables, the business of making loans for the express purpose of funding purchases of tangible personal property or services by the borrower, or the business of finance leasing. For purposes of this item (i), "customer receivable" means:

(a) a retail installment contract or retail charge agreement within the meaning of the Sales Finance Agency Act, the Retail

Installment Sales Act, or the Motor Vehicle Retail Installment Sales Act;

(b) an installment, charge, credit, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment price payable in one or more installments subsequent to the sale; or

(c) the outstanding balance of a contract or agreement described in provisions (a) or (b) of this item (i).

A customer receivable need not provide for payment of interest on deferred payments. A sales finance company may purchase a customer receivable from, or make a loan secured by a customer receivable to, the seller in the original transaction or to a person who purchased the customer receivable directly or indirectly from that seller.

(ii) A corporation meeting each of the following criteria:

(a) the corporation must be a member of an "affiliated group" within the meaning of Section 1504(a) of the Internal Revenue Code, determined without regard to Section 1504(b) of the Internal Revenue Code;

(b) more than 50% of the gross income of the corporation for the taxable year must be interest income derived from qualifying loans. A "qualifying loan" is a loan made to a member of the corporation's affiliated group that originates customer receivables (within the meaning of item (i)) or to whom customer receivables originated by a member of the affiliated group have been transferred, to the extent the average outstanding balance of loans from that corporation to members of its affiliated group during the taxable year do not exceed the limitation amount for that corporation. The "limitation amount" for a corporation is the average outstanding balances during the taxable year of customer receivables (within the meaning of item (i)) originated by all members of the affiliated group. If the average outstanding balances of the loans made by a corporation to members of its affiliated group exceed the limitation amount, the interest income of that corporation from qualifying loans shall be equal to its interest income from loans to members of its affiliated groups times a fraction equal to the limitation amount

divided by the average outstanding balances of the loans made by that corporation to members of its affiliated group;

(c) the total of all shareholder's equity (including, without limitation, paid-in capital on common and preferred stock and retained earnings) of the corporation plus the total of all of its loans, advances, and other obligations payable or owed to members of its affiliated group may not exceed 20% of the total assets of the corporation at any time during the tax year; and

(d) more than 50% of all interest-bearing obligations of the affiliated group payable to persons outside the group determined in accordance with generally accepted accounting principles must be obligations of the corporation.

This amendatory Act of the 91st General Assembly is declaratory of existing law.

(D) Subparagraphs (B) and (C) of this paragraph are declaratory of existing law and apply retroactively, for all tax years beginning on or before December 31, 1996, to all original returns, to all amended returns filed no later than 30 days after the effective date of this amendatory Act of 1996, and

to all notices issued on or before the effective date of this amendatory Act of 1996 under subsection (a) of Section 903, subsection (a) of Section 904, subsection (e) of Section 909, or Section 912. A taxpayer that is a "financial organization" that engages in any transaction with an affiliate shall be a "financial organization" for all purposes of this Act.

(E) For all tax years beginning on or before December 31, 1996, a taxpayer that falls within the definition of a "financial organization" under subparagraphs (B) or (C) of this paragraph, but who does not fall within the definition of a "financial organization" under the Proposed Regulations issued by the Department of Revenue on July 19, 1996, may irrevocably elect to apply the Proposed Regulations for all of those years as though the Proposed Regulations had been lawfully promulgated, adopted, and in effect for all of those years. For purposes of applying subparagraphs (B) or (C) of this paragraph to all of those years, the election allowed by this subparagraph applies only to the taxpayer making the election and to those members of the taxpayer's unitary business group who are ordinarily required to apportion business income under the same subsection of Section 304 of this Act as the taxpayer making the election. No election allowed by this subparagraph

shall be made under a claim filed under subsection (d) of Section 909 more than 30 days after the effective date of this amendatory Act of 1996.

(F) Finance Leases. For purposes of this subsection, a finance lease shall be treated as a loan or other extension of credit, rather than as a lease, regardless of how the transaction is characterized for any other purpose, including the purposes of any regulatory agency to which the lessor is subject. A finance lease is any transaction in the form of a lease in which the lessee is treated as the owner of the leased asset entitled to any deduction for depreciation allowed under Section 167 of the Internal Revenue Code.

(9) Fiscal year. The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(9.5) Fixed place of business. The term "fixed place of business" has the same meaning as that term is given in Section 864 of the Internal Revenue Code and the related Treasury regulations.

(10) Includes and including. The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(11) Internal Revenue Code. The term "Internal Revenue



Code" means the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes in effect for the taxable year.

(11.5) Investment partnership.

(A) For tax years ending before December 31, 2023, ~~the~~ the term "investment partnership" means any entity that is treated as a partnership for federal income tax purposes that meets the following requirements:

(i) no less than 90% of the partnership's cost of its total assets consists of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry on its activities as an investment partnership;

(ii) no less than 90% of its gross income consists of interest, dividends, and gains from the sale or exchange of qualifying investment securities; and

(iii) the partnership is not a dealer in qualifying investment securities.

(A-5) For tax years ending on or after December 31, 2023, the term "investment partnership" means any entity that is treated as a partnership for federal income tax purposes that meets the following requirements:

(i) no less than 90% of the partnership's cost

of its total assets consists of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry on its activities as an investment partnership; and

(ii) no less than 90% of its gross income consists of interest, dividends, gains from the sale or exchange of qualifying investment securities, and the distributive share of partnership income from lower-tier partnership interests meeting the definition of qualifying investment security under subparagraph (B)(xiii); for the purposes of this subparagraph (ii), "gross income" does not include income from partnerships that are operating at a federal taxable loss.

(B) For purposes of this paragraph (11.5), the term "qualifying investment securities" (other than, for tax years ending on or after December 31, 2023, securities with respect to which the taxpayer is required to apply the rules of Internal Revenue Code Section 475(a)) includes all of the following:

(i) common stock, including preferred or debt securities convertible into common stock, and preferred stock;

(ii) bonds, debentures, and other debt securities;

(iii) foreign and domestic currency deposits secured by federal, state, or local governmental agencies;

(iv) mortgage or asset-backed securities secured by federal, state, or local governmental agencies;

(v) repurchase agreements and loan participations;

(vi) foreign currency exchange contracts and forward and futures contracts on foreign currencies;

(vii) stock and bond index securities and futures contracts and other similar financial securities and futures contracts on those securities;

(viii) options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in items (i) to (vii), inclusive;

(ix) regulated futures contracts;

(x) commodities (not described in Section 1221(a)(1) of the Internal Revenue Code) or futures, forwards, and options with respect to such commodities, provided, however, that any item of a physical commodity to which title is actually acquired in the partnership's capacity as a dealer

in such commodity shall not be a qualifying investment security;

(xi) derivatives; ~~and~~

(xii) a partnership interest in another partnership that is an investment partnership; and

~~and~~

(xiii) for tax years ending on or after December 31, 2023, a partnership interest that, in the hands of the partnership, qualifies as a security within the meaning of subsection (a)(1) of Subchapter 77b of Chapter 2A of Title 15 of the United States Code.

(12) Mathematical error. The term "mathematical error" includes the following types of errors, omissions, or defects in a return filed by a taxpayer which prevents acceptance of the return as filed for processing:

(A) arithmetic errors or incorrect computations on the return or supporting schedules;

(B) entries on the wrong lines;

(C) omission of required supporting forms or schedules or the omission of the information in whole or in part called for thereon; and

(D) an attempt to claim, exclude, deduct, or improperly report, in a manner directly contrary to the provisions of the Act and regulations thereunder any item of income, exemption, deduction, or credit.

(13) Nonbusiness income. The term "nonbusiness income" means all income other than business income or compensation.

(14) Nonresident. The term "nonresident" means a person who is not a resident.

(15) Paid, incurred and accrued. The terms "paid", "incurred" and "accrued" shall be construed according to the method of accounting upon the basis of which the person's base income is computed under this Act.

(16) Partnership and partner. The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such syndicate, group, pool, joint venture or organization.

The term "partnership" includes any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, classified as a partnership for federal income tax purposes.

The term "partnership" does not include a syndicate, group, pool, joint venture, or other unincorporated organization established for the sole purpose of playing the Illinois State Lottery.

(17) Part-year resident. The term "part-year resident"

means an individual who became a resident during the taxable year or ceased to be a resident during the taxable year. Under Section 1501(a)(20)(A)(i) residence commences with presence in this State for other than a temporary or transitory purpose and ceases with absence from this State for other than a temporary or transitory purpose. Under Section 1501(a)(20)(A)(ii) residence commences with the establishment of domicile in this State and ceases with the establishment of domicile in another State.

(18) Person. The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, firm, company, corporation, limited liability company, or fiduciary. For purposes of Section 1301 and 1302 of this Act, a "person" means (i) an individual, (ii) a corporation, (iii) an officer, agent, or employee of a corporation, (iv) a member, agent or employee of a partnership, or (v) a member, manager, employee, officer, director, or agent of a limited liability company who in such capacity commits an offense specified in Section 1301 and 1302.

(18A) Records. The term "records" includes all data maintained by the taxpayer, whether on paper, microfilm, microfiche, or any type of machine-sensible data compilation.

(19) Regulations. The term "regulations" includes rules promulgated and forms prescribed by the Department.

(20) Resident. The term "resident" means:

(A) an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year;

(B) The estate of a decedent who at his or her death was domiciled in this State;

(C) A trust created by a will of a decedent who at his death was domiciled in this State; and

(D) An irrevocable trust, the grantor of which was domiciled in this State at the time such trust became irrevocable. For purpose of this subparagraph, a trust shall be considered irrevocable to the extent that the grantor is not treated as the owner thereof under Sections 671 through 678 of the Internal Revenue Code.

(21) Sales. The term "sales" means all gross receipts of the taxpayer not allocated under Sections 301, 302 and 303.

(22) State. The term "state" when applied to a jurisdiction other than this State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country, or any political subdivision of any of the foregoing. For purposes of the foreign tax credit under Section 601, the term "state"

means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing, effective for tax years ending on or after December 31, 1989.

(23) Taxable year. The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the base income is computed under this Act. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is made.

(24) Taxpayer. The term "taxpayer" means any person subject to the tax imposed by this Act.

(25) International banking facility. The term international banking facility shall have the same meaning as is set forth in the Illinois Banking Act or as is set forth in the laws of the United States or regulations of the Board of Governors of the Federal Reserve System.

(26) Income Tax Return Preparer.

(A) The term "income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this Act or any claim for refund of tax imposed by this Act. The preparation of a substantial portion of a return or



claim for refund shall be treated as the preparation of that return or claim for refund.

(B) A person is not an income tax return preparer if all he or she does is

(i) furnish typing, reproducing, or other mechanical assistance;

(ii) prepare returns or claims for refunds for the employer by whom he or she is regularly and continuously employed;

(iii) prepare as a fiduciary returns or claims for refunds for any person; or

(iv) prepare claims for refunds for a taxpayer in response to any notice of deficiency issued to that taxpayer or in response to any waiver of restriction after the commencement of an audit of that taxpayer or of another taxpayer if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claims he or she is preparing.

(27) Unitary business group.

(A) The term "unitary business group" means a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other. The group will not include those members whose business activity

outside the United States is 80% or more of any such member's total business activity; for purposes of this paragraph and clause (a)(3)(B)(ii) of Section 304, business activity within the United States shall be measured by means of the factors ordinarily applicable under subsections (a), (b), (c), (d), or (h) of Section 304 except that, in the case of members ordinarily required to apportion business income by means of the 3 factor formula of property, payroll and sales specified in subsection (a) of Section 304, including the formula as weighted in subsection (h) of Section 304, such members shall not use the sales factor in the computation and the results of the property and payroll factor computations of subsection (a) of Section 304 shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). The computation required by the preceding sentence shall, in each case, involve the division of the member's property, payroll, or revenue miles in the United States, insurance premiums on property or risk in the United States, or financial organization business income from sources within the United States, as the case may be, by the respective worldwide figures for such items. Common ownership in the case of corporations is the direct or indirect control or ownership of more than 50% of the

outstanding voting stock of the persons carrying on unitary business activity. Unitary business activity can ordinarily be illustrated where the activities of the members are: (1) in the same general line (such as manufacturing, wholesaling, retailing of tangible personal property, insurance, transportation or finance); or (2) are steps in a vertically structured enterprise or process (such as the steps involved in the production of natural resources, which might include exploration, mining, refining, and marketing); and, in either instance, the members are functionally integrated through the exercise of strong centralized management (where, for example, authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member).

(B) In no event, for taxable years ending prior to December 31, 2017, shall any unitary business group include members which are ordinarily required to apportion business income under different subsections of Section 304 except that for tax years ending on or after December 31, 1987 this prohibition shall not apply to a holding company that would otherwise be a member of a unitary business group with taxpayers that apportion business income under any of subsections (b), (c), (c-1), or (d) of Section 304. If a unitary

business group would, but for the preceding sentence, include members that are ordinarily required to apportion business income under different subsections of Section 304, then for each subsection of Section 304 for which there are two or more members, there shall be a separate unitary business group composed of such members. For purposes of the preceding two sentences, a member is "ordinarily required to apportion business income" under a particular subsection of Section 304 if it would be required to use the apportionment method prescribed by such subsection except for the fact that it derives business income solely from Illinois. As used in this paragraph, for taxable years ending before December 31, 2017, the phrase "United States" means only the 50 states and the District of Columbia, but does not include any territory or possession of the United States or any area over which the United States has asserted jurisdiction or claimed exclusive rights with respect to the exploration for or exploitation of natural resources. For taxable years ending on or after December 31, 2017, the phrase "United States", as used in this paragraph, means only the 50 states, the District of Columbia, and any area over which the United States has asserted jurisdiction or claimed exclusive rights with respect to the exploration for

or exploitation of natural resources, but does not include any territory or possession of the United States.

(C) Holding companies.

(i) For purposes of this subparagraph, a "holding company" is a corporation (other than a corporation that is a financial organization under paragraph (8) of this subsection (a) of Section 1501 because it is a bank holding company under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.) or because it is owned by a bank or a bank holding company) that owns a controlling interest in one or more other taxpayers ("controlled taxpayers"); that, during the period that includes the taxable year and the 2 immediately preceding taxable years or, if the corporation was formed during the current or immediately preceding taxable year, the taxable years in which the corporation has been in existence, derived substantially all its gross income from dividends, interest, rents, royalties, fees or other charges received from controlled taxpayers for the provision of services, and gains on the sale or other disposition of interests in controlled taxpayers or in property leased or licensed to controlled taxpayers or used by the

taxpayer in providing services to controlled taxpayers; and that incurs no substantial expenses other than expenses (including interest and other costs of borrowing) incurred in connection with the acquisition and holding of interests in controlled taxpayers and in the provision of services to controlled taxpayers or in the leasing or licensing of property to controlled taxpayers.

(ii) The income of a holding company which is a member of more than one unitary business group shall be included in each unitary business group of which it is a member on a pro rata basis, by including in each unitary business group that portion of the base income of the holding company that bears the same proportion to the total base income of the holding company as the gross receipts of the unitary business group bears to the combined gross receipts of all unitary business groups (in both cases without regard to the holding company) or on any other reasonable basis, consistently applied.

(iii) A holding company shall apportion its business income under the subsection of Section 304 used by the other members of its unitary business group. The apportionment factors of a holding company which would be a member of more

than one unitary business group shall be included with the apportionment factors of each unitary business group of which it is a member on a pro rata basis using the same method used in clause (ii).

(iv) The provisions of this subparagraph (C) are intended to clarify existing law.

(D) If including the base income and factors of a holding company in more than one unitary business group under subparagraph (C) does not fairly reflect the degree of integration between the holding company and one or more of the unitary business groups, the dependence of the holding company and one or more of the unitary business groups upon each other, or the contributions between the holding company and one or more of the unitary business groups, the holding company may petition the Director, under the procedures provided under Section 304(f), for permission to include all base income and factors of the holding company only with members of a unitary business group apportioning their business income under one subsection of subsections (a), (b), (c), or (d) of Section 304. If the petition is granted, the holding company shall be included in a unitary business group only with persons apportioning their business income under the selected subsection of

Section 304 until the Director grants a petition of the holding company either to be included in more than one unitary business group under subparagraph (C) or to include its base income and factors only with members of a unitary business group apportioning their business income under a different subsection of Section 304.

(E) If the unitary business group members' accounting periods differ, the common parent's accounting period or, if there is no common parent, the accounting period of the member that is expected to have, on a recurring basis, the greatest Illinois income tax liability must be used to determine whether to use the apportionment method provided in subsection (a) or subsection (h) of Section 304. The prohibition against membership in a unitary business group for taxpayers ordinarily required to apportion income under different subsections of Section 304 does not apply to taxpayers required to apportion income under subsection (a) and subsection (h) of Section 304. The provisions of this amendatory Act of 1998 apply to tax years ending on or after December 31, 1998.

(28) Subchapter S corporation. The term "Subchapter S corporation" means a corporation for which there is in effect an election under Section 1362 of the Internal Revenue Code, or for which there is a federal election to



opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982.

(30) Foreign person. The term "foreign person" means any person who is a nonresident individual who is a national or citizen of a country other than the United States and any nonindividual entity, regardless of where created or organized, whose business activity outside the United States is 80% or more of the entity's total business activity.

(b) Other definitions.

(1) Words denoting number, gender, and so forth, when used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(A) Words importing the singular include and apply to several persons, parties or things;

(B) Words importing the plural include the singular; and

(C) Words importing the masculine gender include the feminine as well.

(2) "Company" or "association" as including successors and assigns. The word "company" or "association", when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association", and in like manner as if these last-named words, or words of similar import, were expressed.

(3) Other terms. Any term used in any Section of this Act with respect to the application of, or in connection with, the provisions of any other Section of this Act shall have the same meaning as in such other Section.

(Source: P.A. 102-1030, eff. 5-27-22.)

#### ARTICLE 55. ANGEL INVESTMENT CREDIT

Section 55-5. The Illinois Income Tax Act is amended by changing Section 220 as follows:

(35 ILCS 5/220)

Sec. 220. Angel investment credit.

(a) As used in this Section:

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include (i) a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the qualified new business venture receiving the investment or (ii) a related member.

"Claimant" means an applicant certified by the Department who files a claim for a credit under this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Investment" means money (or its equivalent) given to a qualified new business venture, at a risk of loss, in consideration for an equity interest of the qualified new business venture. The Department may adopt rules to permit certain forms of contingent equity investments to be considered eligible for a tax credit under this Section.

"Qualified new business venture" means a business that is registered with the Department under this Section.

"Related member" means a person that, with respect to the applicant, is any one of the following:

(1) An individual, if the individual and the members of the individual's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(3) A corporation, and any party related to the

corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the outstanding stock of the qualified new business venture that is the recipient of the applicant's investment.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(5) A person to or from whom there is attribution of ownership of stock in the qualified new business venture that is the recipient of the applicant's investment in accordance with Section 1563(e) of the Internal Revenue Code, except that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2026, subject to the limitations provided in this Section, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. However, the amount of the credit is 35% of the claimant's investment made directly in the qualified new business venture if the investment is made in: (1) a qualified new business venture that is a minority-owned business, a women-owned business, or a business owned a person with a disability (as those terms are used and defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act); or (2) a qualified new business venture in which the principal place of business is located in a county with a population of not more than 250,000. In order for an investment in a qualified new business venture to be eligible for tax credits, the business must have applied for and received certification under subsection (e) for the taxable year in which the investment was made prior to the date on which the investment was made. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied

to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or Subchapter S Corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The minimum amount an applicant must invest in any single qualified new business venture in order to be eligible for a credit under this Section is \$10,000. The maximum amount of an applicant's total investment made in any single qualified new business venture that may be used as the basis for a credit under this Section is \$2,000,000.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that: (i) each qualified new business venture that receives an angel investment under this Section has maintained a minimum employment threshold, as defined by rule, in the State (and continues to maintain a minimum employment threshold in the State for a period of no less than 3 years from the issue date of the last tax credit certificate issued by the Department with respect to such business pursuant to this Section); and

(ii) the claimant's investment has been made and remains, except in the event of a qualifying liquidity event, in the qualified new business venture for no less than 3 years.

If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, other than as a result of a permitted sale of the investment to person who is not a related member, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that the claimant received related to the subject investment.

If the Department determines that a qualified new business venture failed to maintain a minimum employment threshold in the State through the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to the subject business pursuant to this Section, the claimant or claimants shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that claimant or claimants received related to investments in that business.

(e) The Department shall implement a program to register qualified new business ventures for purposes of this Section. A business desiring registration under this Section shall be required to submit a full and complete application to the Department. A submitted application shall be effective only

for the taxable year in which it is submitted, and a business desiring registration under this Section shall be required to submit a separate application in and for each taxable year for which the business desires registration. Further, if at any time prior to the acceptance of an application for registration under this Section by the Department one or more events occurs which makes the information provided in that application materially false or incomplete (in whole or in part), the business shall promptly notify the Department of the same. Any failure of a business to promptly provide the foregoing information to the Department may, at the discretion of the Department, result in a revocation of a previously approved application for that business, or disqualification of the business from future registration under this Section, or both. The Department may register the business only if all of the following conditions are satisfied:

(1) it has its principal place of business in this State;

(2) at least 51% of the employees employed by the business are employed in this State;

(3) the business has the potential for increasing jobs in this State, increasing capital investment in this State, or both, as determined by the Department, and either of the following apply:

(A) it is principally engaged in innovation in any of the following: manufacturing; biotechnology;



nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

(B) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology;

(4) it is not principally engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;

(5) at the time it is first certified:

(A) it has fewer than 100 employees;

(B) it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and

(C) it has received not more than \$10,000,000 in aggregate investments;

(5.1) it agrees to maintain a minimum employment threshold in the State of Illinois prior to the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to that business pursuant to this Section;

(6) (blank); and

(7) it has received not more than \$4,000,000 in investments that qualified for tax credits under this Section.

(f) The Department, in consultation with the Department of Revenue, shall adopt rules to administer this Section. For taxable years beginning before January 1, 2024, the ~~The~~ aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited to ~~at~~ \$10,000,000 per calendar year, of which \$500,000 shall be reserved for investments made in qualified new business ventures which are minority-owned businesses, women-owned businesses, or businesses owned by a person with a disability (as those terms are used and defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act), and an additional \$500,000 shall be

reserved for investments made in qualified new business ventures with their principal place of business in counties with a population of not more than 250,000. For taxable years beginning on or after January 1, 2024, the aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited to \$15,000,000 per calendar year, of which \$2,500,000 shall be reserved for investments made in qualified new business ventures that are minority-owned businesses (as the term is defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act), \$1,250,000 shall be reserved for investments made in qualified new business ventures that are women-owned businesses or businesses owned by a person with a disability (as those terms are defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act), and \$1,250,000 shall be reserved for investments made in qualified new business ventures with their principal place of business in a county with a population of not more than 250,000. The ~~foregoing~~ annual allowable amounts set forth in this Section shall be allocated by the Department, on a per calendar quarter basis and prior to the commencement of each calendar year, in such proportion as determined by the Department, provided that: (i) the amount initially allocated by the Department for any one calendar quarter shall not exceed 35% of the total allowable amount; (ii) any portion of the allocated allowable amount remaining

unused as of the end of any of the first 3 calendar quarters of a given calendar year shall be rolled into, and added to, the total allocated amount for the next available calendar quarter; and (iii) the reservation of tax credits for investments in minority-owned businesses, women-owned businesses, businesses owned by a person with a disability, and in businesses in counties with a population of not more than 250,000 is limited to the first 3 calendar quarters of a given calendar year, after which they may be claimed by investors in any qualified new business venture.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.

(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.

(1) This report must include, for each tax credit certificate awarded:

(A) the name of the claimant and the amount of credit awarded or allocated to that claimant;

(B) the name and address (including the county) of the qualified new business venture that received the investment giving rise to the credit, the North American Industry Classification System (NAICS) code applicable to that qualified new business venture, and the number of employees of the qualified new business

venture; and

(C) the date of approval by the Department of each claimant's tax credit certificate.

(2) The report must also include:

(A) the total number of applicants and the total number of claimants, including the amount of each tax credit certificate awarded to a claimant under this Section in the prior calendar year;

(B) the total number of applications from businesses seeking registration under this Section, the total number of new qualified business ventures registered by the Department, and the aggregate amount of investment upon which tax credit certificates were issued in the prior calendar year; and

(C) the total amount of tax credit certificates sought by applicants, the amount of each tax credit certificate issued to a claimant, the aggregate amount of all tax credit certificates issued in the prior calendar year and the aggregate amount of tax credit certificates issued as authorized under this Section for all calendar years.

(i) For each business seeking registration under this Section after December 31, 2016, the Department shall require the business to include in its application the North American Industry Classification System (NAICS) code applicable to the business and the number of employees of the business at the

time of application. Each business registered by the Department as a qualified new business venture that receives an investment giving rise to the issuance of a tax credit certificate pursuant to this Section shall, for each of the 3 years following the issue date of the last tax credit certificate issued by the Department with respect to such business pursuant to this Section, report to the Department the following:

(1) the number of employees and the location at which those employees are employed, both as of the end of each year;

(2) the amount of additional new capital investment raised as of the end of each year, if any; and

(3) the terms of any liquidity event occurring during such year; for the purposes of this Section, a "liquidity event" means any event that would be considered an exit for an illiquid investment, including any event that allows the equity holders of the business (or any material portion thereof) to cash out some or all of their respective equity interests.

(Source: P.A. 101-81, eff. 7-12-19; 102-16, eff. 6-17-21.)

#### ARTICLE 60. NEW MARKETS DEVELOPMENT PROGRAM

Section 60-5. The New Markets Development Program Act is amended by changing Sections 5, 20, 25, 45, and 50 as follows:

(20 ILCS 663/5)

Sec. 5. Definitions. As used in this Act:

"Applicable percentage" means 0% for each of the first 2 credit allowance dates, 7% for the third credit allowance date, and 8% for the next 4 credit allowance dates.

"Credit allowance date" means with respect to any qualified equity investment:

(1) the date on which the investment is initially made; and

(2) each of the 6 anniversary dates of that date thereafter.

"Department" means the Department of Commerce and Economic Opportunity.

"Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least 7 years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date. Cumulative cash payments of interest on the qualified debt instrument during the period commencing with the issuance of the qualified debt instrument and ending with the seventh anniversary of its issuance shall not exceed the sum of such cash interest payments and the cumulative net income of the issuing community development entity for the same period. This definition in no way limits the holder's

ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this Act or Section 45D of the Internal Revenue Code of 1986, as amended.

"Purchase price" means the amount paid to the issuer of a qualified equity investment for that qualified equity investment.

"Qualified active low-income community business" has the meaning given to that term in Section 45D of the Internal Revenue Code of 1986, as amended; except that any business that derives or projects to derive 15% or more of its annual revenue from the rental or sale of real estate is not considered to be a qualified active low-income community business. This exception does not apply to a business that is controlled by or under common control with another business if the second business (i) does not derive or project to derive 15% or more of its annual revenue from the rental or sale of real estate and (ii) is the primary tenant of the real estate leased from the initial business. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in or loan to the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or



loan.

"Qualified community development entity" has the meaning given to that term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, that includes the State of Illinois within the service area set forth in that allocation agreement.

"Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(1) is acquired after the effective date of this Act at its original issuance solely in exchange for cash;

(2) with respect to qualified equity investments made before January 1, 2024 ~~2017~~, has at least 85% of its cash purchase price used by the issuer to make qualified low-income community investments in the State of Illinois, and, with respect to qualified equity investments made on or after January 1, 2024 ~~2017~~, has 100% of the cash purchase price used by the issuer to make qualified low-income community investments in the State of Illinois; and

(3) is designated by the issuer as a qualified equity

investment under this Act; with respect to qualified equity investments made on or after January 1, 2024 ~~2017~~, is designated by the issuer as a qualified equity investment under Section 45D of the Internal Revenue Code of 1986, as amended; and is certified by the Department as not exceeding the limitation contained in Section 20.

This term includes any qualified equity investment that does not meet the provisions of item (1) of this definition if the investment was a qualified equity investment in the hands of a prior holder.

"Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in that business, on a collective basis with all of its affiliates that may be counted towards the satisfaction of paragraph (2) of the definition of qualified equity investment, shall be \$10,000,000 whether issued to one or several qualified community development entities.

"Tax credit" means a credit against any income, franchise, or insurance premium taxes, including insurance retaliatory taxes, otherwise due under Illinois law.

"Taxpayer" means any individual or entity subject to any income, franchise, or insurance premium tax under Illinois law.

(Source: P.A. 100-408, eff. 8-25-17.)

(20 ILCS 663/20)

Sec. 20. Annual cap on credits. The Department shall limit the monetary amount of qualified equity investments permitted under this Act to a level necessary to limit tax credit use at no more than (i) \$20,000,000 in ~~of~~ tax credits for fiscal years beginning before July 1, 2023 and (ii) \$25,000,000 in tax credits for fiscal years beginning on or after July 1, 2023 ~~in any fiscal year~~. This limitation on qualified equity investments shall be based on the anticipated use of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

(Source: P.A. 100-408, eff. 8-25-17.)

(20 ILCS 663/25)

Sec. 25. Certification of qualified equity investments.

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under this Section shall apply to the Department. The qualified community development entity must submit an application on a form that the Department provides that includes:

(1) The name, address, tax identification number of the entity, and evidence of the entity's certification as

a qualified community development entity.

(2) A copy of the allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund.

(3) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund.

(4) A description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security.

(5) The name and tax identification number of any taxpayer eligible to utilize tax credits earned as a result of the issuance of the qualified equity investment.

(6) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment.

(7) A nonrefundable application fee of \$5,000. This fee shall be paid to the Department and shall be required of each application submitted.

(8) With respect to qualified equity investments made on or after January 1, 2017, the amount of qualified equity investment authority the applicant agrees to designate as a federal qualified equity investment under Section 45D of the Internal Revenue Code, including a copy of the screen shot from the Community Development Financial Institutions Fund's Allocation Tracking System

of the applicant's remaining federal qualified equity investment authority.

(b) Within 30 days after receipt of a completed application containing the information necessary for the Department to certify a potential qualified equity investment, including the payment of the application fee, the Department shall grant or deny the application in full or in part. If the Department denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the Department or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(c) If the application is deemed complete, the Department shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for tax credits under this Section, subject to the limitations contained in Section 20. The Department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and

their respective credit amounts. If the names of the taxpayers who are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to Section 15, the qualified community development entity shall notify the Department of such change.

(d) With respect to applications received before January 1, 2017, the Department shall certify qualified equity investments in the order applications are received by the Department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the Department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

(d-5) With respect to applications received on or after January 1, 2017, the Department shall certify applications by applicants that agree to designate qualified equity investments as federal qualified equity investments in accordance with item (8) of subsection (a) of this Section in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in an application to be designated as federal qualified equity investments to the total amount of qualified equity investments to be designated

as federal qualified equity investments requested in all applications received on the same day.

(d-10) With respect to applications received on or after January 1, 2017, after complying with subsection (d-5), the Department shall certify the qualified equity investments of all other applicants, including the remaining qualified equity investment authority requested by applicants not designated as federal qualified equity investments in accordance with item (8) of subsection (a) of this Section, in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in the applications to the total amount of qualified equity investments requested in all applications received on the same day.

(e) Once the Department has certified qualified equity investments that, on a cumulative basis, are eligible for \$20,000,000 in tax credits (for taxable years beginning before July 1, 2023) or \$25,000,000 in tax credits (for taxable years beginning on or after July 1, 2023), the Department may not certify any more qualified equity investments. If a pending request cannot be fully certified, the Department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(f) Within 30 days after receiving notice of certification, the qualified community development entity shall (i) issue the qualified equity investment and receive

cash in the amount of the certified amount and (ii) with respect to qualified equity investments made on or after January 1, 2017, if applicable, designate the required amount of qualified equity investment authority as a federal qualified equity investment. The qualified community development entity must provide the Department with evidence of the receipt of the cash investment within 10 business days after receipt and, with respect to qualified equity investments made on or after January 1, 2017, if applicable, provide evidence that the required amount of qualified equity investment authority was designated as a federal qualified equity investment. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the Department for certification. A certification that lapses reverts back to the Department and may be reissued only in accordance with the application process outline in this Section 25.

(g) Allocation rounds enabled by this Act shall be applied for according to the following schedule:

(1) on January 2, 2019, \$125,000,000 of qualified equity investments; ~~and~~

(2) not less than 45 days after but not more than 90 days after the Community Development Financial



Institutions Fund of the United States Department of the Treasury announces allocation awards under a Notice of Funding Availability that is published in the Federal Register after September 6, 2019, \$125,000,000 of qualified equity investments; and -

(3) on or after January 1, 2024, but not more than 120 days after the Community Development Financial Institutions Fund of the United States Department of the Treasury announces allocation awards under a Notice of Funding Availability that was published in the Federal Register on November 22, 2022, \$312,500,000 of qualified equity investments.

(Source: P.A. 100-408, eff. 8-25-17; 101-604, eff. 12-13-19.)

(20 ILCS 663/45)

Sec. 45. Examination and Rulemaking.

(a) The Department may conduct examinations to verify that the tax credits under this Act have been received and applied according to the requirements of this Act and to verify that no event has occurred that would result in a recapture of tax credits under Section 40.

(b) Neither the Department nor the Department of Revenue shall have the authority to promulgate rules under the Act, but, with respect to qualified equity investments issued before January 1, 2024, the Department and the Department of Revenue shall have the authority to issue advisory letters to

individual qualified community development entities and their investors that are limited to the specific facts outlined in an advisory letter request from a qualified community development entity. Such rulings cannot be relied upon by any person or entity other than the qualified community development entity that requested the letter and the taxpayers that are entitled to any tax credits generated from investments in such entity. For purposes of this subsection, "rules" is given the meaning contained in Section 1-70 of the Illinois Administrative Procedure Act.

(c) In rendering advisory letters and making other determinations under this Act prior to January 1, 2024, to the extent applicable, the Department and the Department of Revenue shall look for guidance to Section 45D of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder.

(d) It is the intent of the General Assembly that qualified equity investment structures allowed pursuant to advisory letters and other determinations by the Department and the Department of Revenue prior to January 1, 2024 shall be allowed and that qualified community development entities may rely on the rules and regulations issued under Section 45D of the Internal Revenue Code of 1986, as amended, where applicable.

(Source: P.A. 95-1024, eff. 12-31-08.)

(20 ILCS 663/50)

Sec. 50. Sunset. For fiscal years following fiscal year 2031 ~~2024~~, qualified equity investments shall not be made under this Act unless reauthorization is made pursuant to this Section. For all fiscal years following fiscal year 2031 ~~2024~~, unless the General Assembly adopts a joint resolution granting authority to the Department to approve qualified equity investments for the Illinois new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this Section, no qualified equity investments may be permitted to be made under this Act. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under Section 20. Nothing in this Section precludes a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to that qualified equity investment for each applicable credit allowance date.

(Source: P.A. 102-16, eff. 6-17-21.)

#### ARTICLE 65. STANDARD EXEMPTION

Section 65-5. The Illinois Income Tax Act is amended by changing Section 204 as follows:

(35 ILCS 5/204) (from Ch. 120, par. 2-204)

Sec. 204. Standard exemption.

(a) Allowance of exemption. In computing net income under this Act, there shall be allowed as an exemption the sum of the amounts determined under subsections (b), (c) and (d), multiplied by a fraction the numerator of which is the amount of the taxpayer's base income allocable to this State for the taxable year and the denominator of which is the taxpayer's total base income for the taxable year.

(b) Basic amount. For the purpose of subsection (a) of this Section, except as provided by subsection (a) of Section 205 and in this subsection, each taxpayer shall be allowed a basic amount of \$1000, except that for corporations the basic amount shall be zero for tax years ending on or after December 31, 2003, and for individuals the basic amount shall be:

(1) for taxable years ending on or after December 31, 1998 and prior to December 31, 1999, \$1,300;

(2) for taxable years ending on or after December 31, 1999 and prior to December 31, 2000, \$1,650;

(3) for taxable years ending on or after December 31, 2000 and prior to December 31, 2012, \$2,000;

(4) for taxable years ending on or after December 31, 2012 and prior to December 31, 2013, \$2,050;

(5) for taxable years ending on or after December 31, 2013 and on or before December 31, 2022 ~~December 31, 2023~~, \$2,050 plus the cost-of-living adjustment under subsection

(d-5) ~~;~~

(6) for taxable years ending on or after December 31, 2023 and prior to December 31, 2024, \$2,425;

(7) for taxable years ending on or after December 31, 2024 and on or before December 31, 2028, \$2,050 plus the cost-of-living adjustment under subsection (d-5).

For taxable years ending on or after December 31, 1992, a taxpayer whose Illinois base income exceeds the basic amount and who is claimed as a dependent on another person's tax return under the Internal Revenue Code shall not be allowed any basic amount under this subsection.

(c) Additional amount for individuals. In the case of an individual taxpayer, there shall be allowed for the purpose of subsection (a), in addition to the basic amount provided by subsection (b), an additional exemption equal to the basic amount for each exemption in excess of one allowable to such individual taxpayer for the taxable year under Section 151 of the Internal Revenue Code.

(d) Additional exemptions for an individual taxpayer and his or her spouse. In the case of an individual taxpayer and his or her spouse, he or she shall each be allowed additional exemptions as follows:

(1) Additional exemption for taxpayer or spouse 65 years of age or older.

(A) For taxpayer. An additional exemption of \$1,000 for the taxpayer if he or she has attained the

age of 65 before the end of the taxable year.

(B) For spouse when a joint return is not filed. An additional exemption of \$1,000 for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the end of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(2) Additional exemption for blindness of taxpayer or spouse.

(A) For taxpayer. An additional exemption of \$1,000 for the taxpayer if he or she is blind at the end of the taxable year.

(B) For spouse when a joint return is not filed. An additional exemption of \$1,000 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the end of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(C) Blindness defined. For purposes of this subsection, an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than 20 degrees.

(d-5) Cost-of-living adjustment. For purposes of item (5) of subsection (b), the cost-of-living adjustment for any calendar year and for taxable years ending prior to the end of the subsequent calendar year is equal to \$2,050 times the percentage (if any) by which:

(1) the Consumer Price Index for the preceding calendar year, exceeds

(2) the Consumer Price Index for the calendar year 2011.

The Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of that calendar year.

The term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor or any successor agency.

If any cost-of-living adjustment is not a multiple of \$25, that adjustment shall be rounded to the next lowest multiple of \$25.

(e) Cross reference. See Article 3 for the manner of determining base income allocable to this State.

(f) Application of Section 250. Section 250 does not apply to the amendments to this Section made by Public Act 90-613.

(g) Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, no taxpayer may claim an exemption under this Section if the taxpayer's adjusted gross income for the taxable year exceeds (i) \$500,000, in the case of spouses filing a joint federal tax return or (ii) \$250,000, in the case of all other taxpayers. (Source: P.A. 100-22, eff. 7-6-17; 100-865, eff. 8-14-18.)

#### ARTICLE 70. AVIATION FUEL

Section 70-5. The Use Tax Act is amended by changing Section 3-87 as follows:

(35 ILCS 105/3-87)

Sec. 3-87. Sustainable Aviation Fuel Purchase Credit.

(a) From July 1, 2023 through December 31, 2032 ~~June 1, 2023 through January 1, 2033~~, sustainable aviation fuel sold to or used by an air common carrier, certified by the carrier ~~to the Department~~ to be used in Illinois, earns a credit in the amount of \$1.50 per gallon of sustainable aviation fuel purchased. The credit earned shall be referred to as the Sustainable Aviation Fuel Purchase Credit.



Only that portion of each gallon of aviation fuel that consists of sustainable aviation fuel, as defined in this Section, is eligible to earn the credit.

The credit is earned at the time sustainable aviation fuel is purchased for use in Illinois. The amount of credit that is earned is based on the number of whole gallons of sustainable aviation fuel purchased for use in Illinois. Partial gallons will not earn a credit. Credits may be used at the same time as they are earned.

For a sale or use of aviation fuel to qualify to earn the Sustainable Aviation Fuel Purchase Credit, taxpayers must retain in their books and records a certification from the producer of the aviation fuel that the aviation fuel sold or used and for which a sustainable aviation fuel purchase credit was earned meets the definition of sustainable aviation fuel under this Section. The documentation must include detail sufficient for the Department to determine the number of gallons of sustainable aviation fuel sold or used.

A Sustainable Aviation Fuel Purchase Credit earned by an air common carrier expires on December 31, 2032. The Sustainable Aviation Fuel Purchase Credit is non-transferable and non-refundable. Taxpayers shall account for the earning and usage of Sustainable Aviation Fuel Purchase Credits on each monthly return filed with the Department, as deemed necessary by the Department.

The purchaser of sustainable aviation fuel shall certify

to the seller of the aviation fuel that the purchaser is satisfying all or part of its liability for the 6.25% tax under the Use Tax Act or the Service Use Tax Act that is due on the purchase of aviation fuel by use of the sustainable aviation fuel purchase credit.

The Sustainable Aviation Fuel Purchase Credit certification must be dated and shall include the name and address of the purchaser, the purchaser's registration number, if registered, the credit being applied, and a statement that the State Use Tax or Service Use Tax ~~use tax or service use tax~~ liability is being satisfied with the air common carrier's ~~accumulated~~ sustainable aviation fuel purchase credit.

An air common carrier-purchaser of aviation fuel may utilize the Sustainable Aviation Fuel Purchase Credit in satisfaction of the 6.25% tax arising from the purchase of aviation fuel, but not in satisfaction of penalty or interest.

Until January 1, 2033 ~~July 1, 2033~~, on an annual basis, running from January through December each year, no credit may be earned by an air common carrier for soybean oil-derived sustainable aviation fuel once air common carriers in this State have collectively purchased sustainable aviation fuel containing 10,000,000 gallons of soybean oil feedstock. If, in any year, air common carriers collectively purchase sustainable aviation fuel containing more than 10,000,000 gallons of soybean oil feedstock for use in this State, then, in the month in which taxpayer reporting shows that the credit

earned from these purchases exceeds the cap, the Department shall first determine the remaining number of gallons of soybean oil feedstock available to earn the credit for that year by subtracting from 10,000,000 the number of gallons of soybean oil feedstock collectively purchased that year based on the prior month's taxpayer reporting. The Department shall then allocate the credit from these remaining gallons of soybean oil feedstock available to earn the credit for that year by allowing credit to each air common carrier in the same proportion as the number of gallons of soybean oil feedstock reported as having been purchased by each air common carrier during the month in which the cap is exceeded is to all of the gallons of soybean oil feedstock reported as having been purchased during that month. The earning of any credit in excess of this shall be disallowed for the remainder of the year. For any credit that was used, the earning of which was disallowed in the process described in this paragraph, any resulting tax shall be due on or before April 20th of the year following the year in which the 10,000,000 gallon cap on soybean oil feedstock was exceeded and shall be reported and paid on the aviation fuel tax return. Any credit that is earned for the purchase of soybean oil feedstock but not timely reported in a year in which the cap is exceeded is disallowed.

A Sustainable Aviation Fuel Purchase Credit certification provided by the air common carrier may be used to satisfy the retailer's or serviceman's 6.25% tax liability on aviation

fuel under the Retailers' Occupation Tax Act or Service Occupation Tax Act for the credit claimed.

(b) As used in this Section, "sustainable aviation fuel" means liquid fuel that meets the criteria set forth in subsections (d) and (e) of Section 40B of the federal Internal Revenue Code of 1986 or:

(1) consists of synthesized hydrocarbons and meets the requirements of:

(A) the American Society for Testing and Materials International Standard D7566; or

(B) the Fischer-Tropsch provisions of American Society for Testing and Materials International Standard D1655, Annex A1;

(2) prior to June 1, 2028, is derived from biomass resources, waste streams, renewable energy sources, or gaseous carbon oxides, and beginning on June 1, 2028 is derived from domestic biomass resources;

(3) is not derived from any palm derivatives; and

(4) the fuel production pathway for the sustainable aviation fuel achieves at least a 50% lifecycle greenhouse gas emissions reduction in comparison with petroleum-based jet fuel, as determined by a test that shows:

(A) that the fuel production pathway achieves at least a 50% reduction of the aggregate attributional core lifecycle emissions and the positive induced land use change values under the lifecycle methodology for

sustainable aviation fuels adopted by the International Civil Aviation Organization with the agreement of the United States; or

(B) that the fuel production pathway achieves at least a 50% reduction of the aggregate attributional core lifecycle greenhouse gas emissions values utilizing the most recent version of Argonne National Laboratory's GREET model, inclusive of agricultural practices and carbon capture and sequestration.

(Source: P.A. 102-1125, eff. 2-3-23.)

Section 70-10. The Service Use Tax Act is amended by changing Section 3-72 as follows:

(35 ILCS 110/3-72)

Sec. 3-72. Sustainable Aviation Fuel Purchase Credit.

(a) From July 1, 2023 through December 31, 2032 ~~June 1, 2023 through January 1, 2033~~, sustainable aviation fuel sold to or used by an air common carrier, certified by the carrier ~~to the Department~~ to be used in Illinois, earns a credit in the amount of \$1.50 per gallon of sustainable aviation fuel purchased. The credit earned shall be referred to as the Sustainable Aviation Fuel Purchase Credit.

Only that portion of each gallon of aviation fuel that consists of sustainable aviation fuel, as defined in this Section, is eligible to earn the credit.

The credit is earned at the time sustainable aviation fuel is purchased for use in Illinois. The amount of credit that is earned is based on the number of whole gallons of sustainable aviation fuel purchased for use in Illinois. Partial gallons will not earn a credit. Credits may be used at the same time as they are earned.

For a sale or use of aviation fuel to qualify to earn the Sustainable Aviation Fuel Purchase Credit, taxpayers must retain in their books and records a certification from the producer of the aviation fuel that the aviation fuel sold or used and for which a sustainable aviation fuel purchase credit was earned meets the definition of sustainable aviation fuel under this Section. The documentation must include detail sufficient for the Department to determine the number of gallons of sustainable aviation fuel sold or used.

A Sustainable Aviation Fuel Purchase Credit earned by an air common carrier expires on December 31, 2032. The Sustainable Aviation Fuel Purchase Credit is a non-transferable and non-refundable credit. Taxpayers shall account for the earning and usage of Sustainable Aviation Fuel Purchase Credits on each monthly return filed with the Department, as deemed necessary by the Department.

The purchaser of sustainable aviation fuel shall certify to the seller of the aviation fuel that the purchaser is satisfying all or part of its liability for the 6.25% tax under the Use Tax Act or the Service Use Tax Act that is due on the

purchase of aviation fuel by use of the sustainable aviation fuel purchase credit.

The Sustainable Aviation Fuel Purchase Credit certification must be dated and shall include the name and address of the purchaser, the purchaser's registration number, if registered, the credit being applied, and a statement that the State Use Tax or Service Use Tax ~~use tax or service use tax~~ liability is being satisfied with the air common carrier's ~~accumulated~~ sustainable aviation fuel purchase credit.

An air common carrier-purchaser of aviation fuel may utilize the Sustainable Aviation Fuel Purchase Credit in satisfaction of the 6.25% tax arising from the purchase of aviation fuel, but not in satisfaction of penalty or interest.

Until January 1, 2033 ~~July 1, 2033~~, on an annual basis running from January through December each year, no credit may be earned by an air common carrier for soybean oil-derived sustainable aviation fuel once air common carriers in this State have collectively purchased sustainable aviation fuel containing 10,000,000 gallons of soybean oil feedstock. If, in any year, air common carriers collectively purchase sustainable aviation fuel containing more than 10,000,000 gallons of soybean oil feedstock for use in this State, then, in the month in which taxpayer reporting shows that the credit earned from these purchases exceeds the cap, the Department shall first determine the remaining number of gallons of soybean oil feedstock available to earn the credit for that

year by subtracting from 10,000,000 the number of gallons of soybean oil feedstock collectively purchased that year based on the prior month's taxpayer reporting. The Department shall then allocate the credit from these remaining gallons of soybean oil feedstock available to earn the credit for that year by allowing credit to each air common carrier in the same proportion as the number of gallons of soybean oil feedstock reported as having been purchased by each air common carrier during the month in which the cap is exceeded is to all of the gallons of soybean oil feedstock reported as having been purchased during that month. The earning of any credit in excess of this shall be disallowed for the remainder of the year. For any credit that was used, the earning of which was disallowed in the process described in this paragraph, any resulting tax shall be due on or before April 20th of the year following the year in which the 10,000,000 gallon cap on soybean oil feedstock was exceeded and shall be reported and paid on the aviation fuel tax return. Any credit that is earned for the purchase of soybean oil feedstock but not timely reported in a year in which the cap is exceeded is disallowed.

A Sustainable Aviation Fuel Purchase Credit certification provided by the air common carrier may be used to satisfy the retailer's or serviceman's 6.25% tax liability on aviation fuel under the Retailers' Occupation Tax Act or Service Occupation Tax Act for the credit claimed.

(b) As used in this Section, "sustainable aviation fuel"



means liquid fuel that meets the criteria set forth in subsections (d) and (e) of Section 40B of the federal Internal Revenue Code of 1986 or:

(1) consists of synthesized hydrocarbons and meets the requirements of:

(A) the American Society for Testing and Materials International Standard D7566; or

(B) the Fischer-Tropsch provisions of American Society for Testing and Materials International Standard D1655, Annex A1;

(2) prior to June 1, 2028, is derived from biomass resources, waste streams, renewable energy sources, or gaseous carbon oxides, and beginning on June 1, 2028 is derived from domestic biomass resources;

(3) is not derived from any palm derivatives; and

(4) the fuel production pathway for the sustainable aviation fuel achieves at least a 50% lifecycle greenhouse gas emissions reduction in comparison with petroleum-based jet fuel, as determined by a test that shows:

(A) that the fuel production pathway achieves at least a 50% reduction of the aggregate attributional core lifecycle emissions and the positive induced land use change values under the lifecycle methodology for sustainable aviation fuels adopted by the International Civil Aviation Organization with the agreement of the United States; or

(B) that the fuel production pathway achieves at least a 50% reduction of the aggregate attributional core lifecycle greenhouse gas emissions values utilizing the most recent version of Argonne National Laboratory's GREET model, inclusive of agricultural practices and carbon capture and sequestration.

(Source: P.A. 102-1125, eff. 2-3-23.)

Section 70-15. The Service Occupation Tax Act is amended by changing Section 9 as follows:

(35 ILCS 115/9) (from Ch. 120, par. 439.109)

Sec. 9. Each serviceman required or authorized to collect the tax herein imposed shall pay to the Department the amount of such tax at the time when he is required to file his return for the period during which such tax was collectible, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the serviceman for expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. When determining the discount allowed under this Section, servicemen shall include the amount of tax that would have been due at the 1% rate but for the 0% rate imposed under this amendatory Act of the 102nd General Assembly. The discount under this Section is not

allowed for the 1.25% portion of taxes paid on aviation fuel that is subject to the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133. The discount allowed under this Section is allowed only for returns that are filed in the manner required by this Act. The Department may disallow the discount for servicemen whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final.

Where such tangible personal property is sold under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the period for which the return is filed, the serviceman, in collecting the tax may collect, for each tax return period, only the tax applicable to the part of the selling price actually received during such tax return period.

Except as provided hereinafter in this Section, on or before the twentieth day of each calendar month, such serviceman shall file a return for the preceding calendar month in accordance with reasonable rules and regulations to be promulgated by the Department of Revenue. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require. The return shall include the gross receipts which were received during the preceding calendar month or quarter

on the following items upon which tax would have been due but for the 0% rate imposed under this amendatory Act of the 102nd General Assembly: (i) food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption); and (ii) food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Use Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Assisted Living and Shared Housing Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care Act of 1969, or an entity that holds a permit issued pursuant to the Life Care Facilities Act. The return shall also include the amount of tax that would have been due on the items listed in the previous sentence but for the 0% rate imposed under this amendatory Act of the 102nd General Assembly.

On and after January 1, 2018, with respect to servicemen whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to this Act shall be filed electronically. Servicemen who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement.

The Department may require returns to be filed on a

quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;
2. The address of the principal place of business from which he engages in business as a serviceman in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;
5. The amount of tax due;
- 5-5. The signature of the taxpayer; and
6. Such other reasonable information as the Department may require.

Each serviceman required or authorized to collect the tax herein imposed on aviation fuel acquired as an incident to the purchase of a service in this State during the preceding calendar month shall, instead of reporting and paying tax as otherwise required by this Section, report and pay such tax on a separate aviation fuel tax return. The requirements related

to the return shall be as otherwise provided in this Section. Notwithstanding any other provisions of this Act to the contrary, servicemen transferring aviation fuel incident to sales of service shall file all aviation fuel tax returns and shall make all aviation fuel tax payments by electronic means in the manner and form required by the Department. For purposes of this Section, "aviation fuel" means jet fuel and aviation gasoline.

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

Notwithstanding any other provision of this Act to the contrary, servicemen subject to tax on cannabis shall file all cannabis tax returns and shall make all cannabis tax payments by electronic means in the manner and form required by the Department.

Prior to October 1, 2003, and on and after September 1, 2004 a serviceman may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Service Use Tax as provided in Section 3-70 of the Service Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-70 of the Service Use Tax Act. A Manufacturer's Purchase Credit certification, accepted prior to October 1, 2003 or on or after September 1, 2004 by a serviceman as provided in Section 3-70 of the Service Use Tax

Act, may be used by that serviceman to satisfy Service Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchase Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

Beginning on July 1, 2023 and through December 31, 2032, a serviceman may accept a Sustainable Aviation Fuel Purchase Credit certification from an air common carrier-purchaser in satisfaction of Service Use Tax as provided in Section 3-72 of the Service Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-72 of the Service Use Tax Act. A Sustainable Aviation Fuel Purchase Credit certification accepted by a serviceman in accordance with this paragraph may be used by that serviceman to satisfy service occupation tax liability (but not in satisfaction of penalty or interest) in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a sale of aviation fuel. In addition, for a sale of

aviation fuel to qualify to earn the Sustainable Aviation Fuel Purchase Credit, servicemen must retain in their books and records a certification from the producer of the aviation fuel that the aviation fuel sold by the serviceman and for which a sustainable aviation fuel purchase credit was earned meets the definition of sustainable aviation fuel under Section 3-72 of the Service Use Tax Act. The documentation must include detail sufficient for the Department to determine the number of gallons of sustainable aviation fuel sold.

If the serviceman's average monthly tax liability to the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

If the serviceman's average monthly tax liability to the Department does not exceed \$50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.

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



Notwithstanding any other provision in this Act concerning the time within which a serviceman may file his return, in the case of any serviceman who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such serviceman shall file a final return under this Act with the Department not more than 1 month after discontinuing such business.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation

and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

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

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

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

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

Where a serviceman collects the tax with respect to the selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal property and the serviceman refunds the selling price thereof to the purchaser, such serviceman shall also refund, to the

purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the serviceman may deduct the amount of the tax so refunded by him to the purchaser from any other Service Occupation Tax, Service Use Tax, Retailers' Occupation Tax or Use Tax which such serviceman may be required to pay or remit to the Department, as shown by such return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such serviceman. If the serviceman shall not previously have remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax to the purchaser.

If experience indicates such action to be practicable, the Department may prescribe and furnish a combination or joint return which will enable servicemen, who are required to file returns hereunder and also under the Retailers' Occupation Tax Act, the Use Tax Act or the Service Use Tax Act, to furnish all the return information required by all said Acts on the one form.

Where the serviceman has more than one business registered with the Department under separate registrations hereunder, such serviceman shall file separate returns for each registered business.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund the revenue realized for the preceding month from the 1% tax imposed under this Act.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the revenue realized for the preceding month from the 6.25% general rate on sales of tangible personal property other than aviation fuel sold on or after December 1, 2019. This exception for aviation fuel only applies for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

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

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the revenue realized for the preceding month from the 6.25% general rate on transfers of tangible personal property other than aviation fuel sold on or after December 1, 2019. This exception for aviation fuel only applies for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

For aviation fuel sold on or after December 1, 2019, each month the Department shall pay into the State Aviation Program Fund 20% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of aviation fuel, less an amount estimated by the Department to be required for refunds of the 20% portion of the tax on aviation

fuel under this Act, which amount shall be deposited into the Aviation Fuel Sales Tax Refund Fund. The Department shall only pay moneys into the State Aviation Program Fund and the Aviation Fuel Sales Tax Refund Fund under this Act for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

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

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that are now taxed at 6.25%.

Beginning July 1, 2013, each month the Department shall pay into the Underground Storage Tank Fund from the proceeds collected under this Act, the Use Tax Act, the Service Use Tax Act, and the Retailers' Occupation Tax Act an amount equal to the average monthly deficit in the Underground Storage Tank Fund during the prior year, as certified annually by the Illinois Environmental Protection Agency, but the total payment into the Underground Storage Tank Fund under this Act, the Use Tax Act, the Service Use Tax Act, and the Retailers'

Occupation Tax Act shall not exceed \$18,000,000 in any State fiscal year. As used in this paragraph, the "average monthly deficit" shall be equal to the difference between the average monthly claims for payment by the fund and the average monthly revenues deposited into the fund, excluding payments made pursuant to this paragraph.

Beginning July 1, 2015, of the remainder of the moneys received by the Department under the Use Tax Act, the Service Use Tax Act, this Act, and the Retailers' Occupation Tax Act, each month the Department shall deposit \$500,000 into the State Crime Laboratory Fund.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be

less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the

principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund



as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated as "Total Deposit", shall be deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000

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2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	300,000,000
2022	300,000,000
2023	300,000,000
2024	300,000,000
2025	300,000,000
2026	300,000,000
2027	375,000,000
2028	375,000,000
2029	375,000,000
2030	375,000,000
2031	375,000,000

2032	375,000,000
2033	375,000,000
2034	375,000,000
2035	375,000,000
2036	450,000,000

and

each fiscal year  
thereafter that bonds  
are outstanding under  
Section 13.2 of the  
Metropolitan Pier and  
Exposition Authority Act,  
but not after fiscal year 2060.

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

Subject to payment of amounts into the Capital Projects Fund, the Build Illinois Fund, and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, for aviation fuel sold on or after December 1, 2019, the Department shall each month deposit into the Aviation Fuel Sales Tax Refund Fund an amount estimated by the Department to be required for refunds of the 80% portion of the tax on aviation fuel under this Act. The Department shall only deposit moneys into the Aviation Fuel Sales Tax Refund Fund under this paragraph for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993 and ending on September 30, 2013, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the

Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after August 26, 2014 (the effective date of Public Act 98-1098), each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to 1/12 of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department.

Subject to payments of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, beginning on July 1, 2018 the Department shall pay each month into the Downstate Public Transportation Fund the moneys required to be so paid under Section 2-3 of the Downstate Public Transportation Act.

Subject to successful execution and delivery of a public-private agreement between the public agency and private entity and completion of the civic build, beginning on July 1, 2023, of the remainder of the moneys received by the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and this Act, the Department shall deposit the following specified deposits in the aggregate from collections under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act, as required under Section 8.25g of the State Finance Act for distribution consistent with the Public-Private Partnership for Civic and Transit Infrastructure Project Act. The moneys received by the Department pursuant to this Act and required to be deposited into the Civic and Transit Infrastructure Fund are subject to the pledge, claim and charge set forth in Section 25-55 of the Public-Private Partnership for Civic and Transit Infrastructure Project Act. As used in this paragraph, "civic build", "private entity",

"public-private agreement", and "public agency" have the meanings provided in Section 25-10 of the Public-Private Partnership for Civic and Transit Infrastructure Project Act.

Fiscal Year.....	Total Deposit
2024 .....	\$200,000,000
2025 .....	\$206,000,000
2026 .....	\$212,200,000
2027 .....	\$218,500,000
2028 .....	\$225,100,000
2029 .....	\$288,700,000
2030 .....	\$298,900,000
2031 .....	\$309,300,000
2032 .....	\$320,100,000
2033 .....	\$331,200,000
2034 .....	\$341,200,000
2035 .....	\$351,400,000
2036 .....	\$361,900,000
2037 .....	\$372,800,000
2038 .....	\$384,000,000
2039 .....	\$395,500,000
2040 .....	\$407,400,000
2041 .....	\$419,600,000
2042 .....	\$432,200,000
2043 .....	\$445,100,000

Beginning July 1, 2021 and until July 1, 2022, subject to the payment of amounts into the County and Mass Transit

District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 16% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning July 1, 2022 and until July 1, 2023, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 32% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning July 1, 2023 and until July 1, 2024, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 48% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning July 1,



2024 and until July 1, 2025, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 64% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning on July 1, 2025, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 80% of the net revenue realized from the taxes imposed on motor fuel and gasohol. As used in this paragraph "motor fuel" has the meaning given to that term in Section 1.1 of the Motor Fuel Tax Law, and "gasohol" has the meaning given to that term in Section 3-40 of the Use Tax Act.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% shall be paid into the General Revenue Fund of the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of the monthly transfer from the General

Revenue Fund in accordance with Section 8a of the State Finance Act.

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the Department shall include a statement of gross receipts as shown by the taxpayer's last Federal income tax return. If the total receipts of the business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the taxpayer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The taxpayer's annual return to the Department shall also disclose the cost of goods sold by the taxpayer during the year covered by such return, opening and closing inventories of such goods for such year, cost of goods used from stock or taken from stock and given away by the taxpayer during such year, pay roll information of the taxpayer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such taxpayer as hereinbefore provided for in this Section.

If the annual information return required by this Section

is not filed when and as required, the taxpayer shall be liable as follows:

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

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

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

The foregoing portion of this Section concerning the filing of an annual information return shall not apply to a serviceman who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller

shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

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

For greater simplicity of administration, it shall be permissible for manufacturers, importers and wholesalers whose products are sold by numerous servicemen in Illinois, and who wish to do so, to assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the servicemen who are affected do not make written objection to the Department to this arrangement.

(Source: P.A. 101-10, Article 15, Section 15-20, eff. 6-5-19; 101-10, Article 25, Section 25-115, eff. 6-5-19; 101-27, eff. 6-25-19; 101-32, eff. 6-28-19; 101-604, eff. 12-13-19; 101-636, eff. 6-10-20; 102-700, eff. 4-19-22.)

Section 70-20. The Retailers' Occupation Tax Act is amended by changing Section 3 as follows:

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

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

1. The name of the seller;

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

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

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

5. Deductions allowed by law;

6. Gross receipts which were received by him during the preceding calendar month or quarter and upon the basis of which the tax is imposed, including gross receipts on food for human consumption that is to be consumed off the

premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption) which were received during the preceding calendar month or quarter and upon which tax would have been due but for the 0% rate imposed under Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly;~~

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

8. The amount of tax due, including the amount of tax that would have been due on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption) but for the 0% rate imposed under Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly;~~

9. The signature of the taxpayer; and

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

On and after January 1, 2018, except for returns required to be filed prior to January 1, 2023 for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, with respect to retailers whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to this Act shall be

filed electronically. On and after January 1, 2023, with respect to retailers whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to this Act, including, but not limited to, returns for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, shall be filed electronically. Retailers who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement.

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

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

Prior to October 1, 2003, and on and after September 1, 2004 a retailer may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Use Tax as provided in Section 3-85 of the Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit certification, accepted by a retailer prior to October 1, 2003 and on and after September 1, 2004 as provided in Section 3-85 of the Use Tax Act, may be used by that retailer to satisfy

Retailers' Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchase Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

Beginning on July 1, 2023 and through December 31, 2032, a retailer may accept a Sustainable Aviation Fuel Purchase Credit certification from an air common carrier-purchaser in satisfaction of Use Tax on aviation fuel as provided in Section 3-87 of the Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-87 of the Use Tax Act. A Sustainable Aviation Fuel Purchase Credit certification accepted by a retailer in accordance with this paragraph may be used by that retailer to satisfy Retailers' Occupation Tax liability (but not in satisfaction of penalty or interest) in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a sale of aviation fuel. In addition, for a sale of aviation fuel to qualify to earn the Sustainable Aviation Fuel Purchase Credit,



retailers must retain in their books and records a certification from the producer of the aviation fuel that the aviation fuel sold by the retailer and for which a sustainable aviation fuel purchase credit was earned meets the definition of sustainable aviation fuel under Section 3-87 of the Use Tax Act. The documentation must include detail sufficient for the Department to determine the number of gallons of sustainable aviation fuel sold.

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

1. The name of the seller;
2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;

5. The amount of tax due; and
6. Such other reasonable information as the Department may require.

Every person engaged in the business of selling aviation fuel at retail in this State during the preceding calendar month shall, instead of reporting and paying tax as otherwise required by this Section, report and pay such tax on a separate aviation fuel tax return. The requirements related to the return shall be as otherwise provided in this Section. Notwithstanding any other provisions of this Act to the contrary, retailers selling aviation fuel shall file all aviation fuel tax returns and shall make all aviation fuel tax payments by electronic means in the manner and form required by the Department. For purposes of this Section, "aviation fuel" means jet fuel and aviation gasoline.

Beginning on October 1, 2003, any person who is not a licensed distributor, importing distributor, or manufacturer, as defined in the Liquor Control Act of 1934, but is engaged in the business of selling, at retail, alcoholic liquor shall file a statement with the Department of Revenue, in a format and at a time prescribed by the Department, showing the total amount paid for alcoholic liquor purchased during the preceding month and such other information as is reasonably required by the Department. The Department may adopt rules to require that this statement be filed in an electronic or telephonic format. Such rules may provide for exceptions from

the filing requirements of this paragraph. For the purposes of this paragraph, the term "alcoholic liquor" shall have the meaning prescribed in the Liquor Control Act of 1934.

Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor as defined in the Liquor Control Act of 1934, shall file a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred, by electronic means, showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. A distributor, importing distributor, or manufacturer of alcoholic liquor must personally deliver, mail, or provide by electronic means to each retailer listed on the monthly statement a report containing a cumulative total of that distributor's, importing distributor's, or manufacturer's total sales of alcoholic liquor to that retailer no later than the 10th day of the month for the preceding month during which the transaction occurred. The distributor, importing distributor, or manufacturer shall notify the retailer as to the method by which the distributor, importing distributor, or manufacturer will provide the sales information. If the retailer is unable to receive the sales information by

electronic means, the distributor, importing distributor, or manufacturer shall furnish the sales information by personal delivery or by mail. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.

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

Notwithstanding any other provision of this Act to the contrary, retailers subject to tax on cannabis shall file all cannabis tax returns and shall make all cannabis tax payments by electronic means in the manner and form required by the Department.

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the

Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

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

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

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to

effectuate a program of electronic funds transfer and the requirements of this Section.

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

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

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

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

Notwithstanding any other provision in this Act concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such retailer shall file a final return under this Act with the Department not more than one month after discontinuing such business.

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

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, except as otherwise provided in this Section, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or

trailer to another aircraft, watercraft, motor vehicle retailer or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 2-5 of this Act, then that seller may report the transfer of all aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every person who is engaged in the business of leasing or renting such items and who, in connection with such business, sells any such item to a retailer for the purpose of resale is, notwithstanding any other provision of this Section to the contrary, authorized to meet the return-filing requirement of this Act by reporting the transfer of all the aircraft, watercraft, motor vehicles, or trailers transferred for resale during a month to the Department on the same uniform invoice-transaction reporting return form on or before the 20th of the month following the month in which the transfer takes place. Notwithstanding any



other provision of this Act to the contrary, all returns filed under this paragraph must be filed by electronic means in the manner and form as required by the Department.

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

The transaction reporting return, in the case of motor vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5-402 of the Illinois Vehicle Code and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory

evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5-402 of the Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft or aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 20 days after the day of delivery of the item that is being sold, but may be filed by the retailer at any time sooner

than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption from the Illinois use tax may be transmitted to the Department by way of the State agency with which, or State officer with whom the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a use tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

No retailer's failure or refusal to remit tax under this Act precludes a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration (if titling or registration

is required) upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer. The Department shall adopt appropriate rules to carry out the mandate of this paragraph.

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

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

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

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

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

Except as provided in this Section, the retailer filing the return under this Section shall, at the time of filing such return, pay to the Department the amount of tax imposed by this Act less a discount of 2.1% prior to January 1, 1990 and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the retailer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. On and after January 1, 2021, a certified service provider, as defined in the Leveling the Playing Field for Illinois Retail Act, filing the return under this Section on behalf of a remote retailer shall, at the time of such return, pay to the Department the amount of tax imposed by this Act less a discount of 1.75%. A remote retailer

using a certified service provider to file a return on its behalf, as provided in the Leveling the Playing Field for Illinois Retail Act, is not eligible for the discount. When determining the discount allowed under this Section, retailers shall include the amount of tax that would have been due at the 1% rate but for the 0% rate imposed under Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly~~. When determining the discount allowed under this Section, retailers shall include the amount of tax that would have been due at the 6.25% rate but for the 1.25% rate imposed on sales tax holiday items under Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly~~. The discount under this Section is not allowed for the 1.25% portion of taxes paid on aviation fuel that is subject to the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133. Any prepayment made pursuant to Section 2d of this Act shall be included in the amount on which such 2.1% or 1.75% discount is computed. In the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return. The discount allowed under this Section is allowed only for returns that are filed in the manner required by this Act. The Department may disallow the discount for retailers whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of

registration has become final.

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month

or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985 and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987 and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual



liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$10,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$10,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$20,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar

quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. Quarter monthly payment status shall be determined under this paragraph as if the rate reduction to 0% in Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly~~ on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, and food that has been prepared for immediate consumption) had not occurred. For quarter monthly payments due under this paragraph on or after July 1, 2023 and through June 30, 2024, "25% of the taxpayer's liability for the same calendar month of the preceding year" shall be determined as if the rate reduction to 0% in Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly~~ had not

occurred. Quarter monthly payment status shall be determined under this paragraph as if the rate reduction to 1.25% in Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly~~ on sales tax holiday items had not occurred. For quarter monthly payments due on or after July 1, 2023 and through June 30, 2024, "25% of the taxpayer's liability for the same calendar month of the preceding year" shall be determined as if the rate reduction to 1.25% in Public Act 102-700 ~~this amendatory Act of the 102nd General Assembly~~ on sales tax holiday items had not occurred. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. The Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for taxpayers who file on other than a calendar monthly basis.

The provisions of this paragraph apply before October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in

excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to September 1, 1985 (the effective date of Public Act 84-221), each payment shall be in an amount not less than 22.5% of the taxpayer's actual liability under Section 2d. If the month during which such tax liability is incurred begins on or after January 1, 1986, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding calendar year. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less.

If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

The provisions of this paragraph apply on and after October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes that average in excess of \$20,000 per month during the preceding 4 complete calendar quarters shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which the liability is incurred. Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of the quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until the taxpayer's average monthly prepaid tax collections during the preceding 4 complete calendar quarters (excluding the month of

highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarters is less than \$20,000. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determined that all or any part of the credit

taken was not actually due to the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

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

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund, a special fund in the State treasury which is hereby created, the net revenue realized for the preceding month from the 1% tax imposed under this Act.

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund, a special fund in the State treasury which is hereby created, 4% of the net revenue realized for the preceding month from the 6.25% general rate other than aviation fuel sold on or after December 1, 2019. This exception for aviation fuel only applies for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25%

rate on the selling price of motor fuel and gasohol. If, in any month, the tax on sales tax holiday items, as defined in Section 2-8, is imposed at the rate of 1.25%, then the Department shall pay 20% of the net revenue realized for that month from the 1.25% rate on the selling price of sales tax holiday items into the County and Mass Transit District Fund.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property other than aviation fuel sold on or after December 1, 2019. This exception for aviation fuel only applies for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

For aviation fuel sold on or after December 1, 2019, each month the Department shall pay into the State Aviation Program Fund 20% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of aviation fuel, less an amount estimated by the Department to be required for refunds of the 20% portion of the tax on aviation fuel under this Act, which amount shall be deposited into the Aviation Fuel Sales Tax Refund Fund. The Department shall only pay moneys into the State Aviation Program Fund and the Aviation Fuel Sales Tax Refund Fund under this Act for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.



Beginning August 1, 2000, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. If, in any month, the tax on sales tax holiday items, as defined in Section 2-8, is imposed at the rate of 1.25%, then the Department shall pay 80% of the net revenue realized for that month from the 1.25% rate on the selling price of sales tax holiday items into the Local Government Tax Fund.

Beginning October 1, 2009, each month the Department shall pay into the Capital Projects Fund an amount that is equal to an amount estimated by the Department to represent 80% of the net revenue realized for the preceding month from the sale of candy, grooming and hygiene products, and soft drinks that had been taxed at a rate of 1% prior to September 1, 2009 but that are now taxed at 6.25%.

Beginning July 1, 2011, each month the Department shall pay into the Clean Air Act Permit Fund 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of sorbents used in Illinois in the process of sorbent injection as used to comply with the Environmental Protection Act or the federal Clean Air Act, but the total payment into the Clean Air Act Permit Fund under this Act and the Use Tax Act shall not exceed \$2,000,000 in any fiscal year.

Beginning July 1, 2013, each month the Department shall

pay into the Underground Storage Tank Fund from the proceeds collected under this Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act an amount equal to the average monthly deficit in the Underground Storage Tank Fund during the prior year, as certified annually by the Illinois Environmental Protection Agency, but the total payment into the Underground Storage Tank Fund under this Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act shall not exceed \$18,000,000 in any State fiscal year. As used in this paragraph, the "average monthly deficit" shall be equal to the difference between the average monthly claims for payment by the fund and the average monthly revenues deposited into the fund, excluding payments made pursuant to this paragraph.

Beginning July 1, 2015, of the remainder of the moneys received by the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and this Act, each month the Department shall deposit \$500,000 into the State Crime Laboratory Fund.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required

to be paid into the Build Illinois Fund pursuant to this Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as hereinafter defined), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; the "Annual Specified Amount" means the amounts specified below for fiscal years 1986 through 1993:

Fiscal Year	Annual Specified Amount
1986	\$54,800,000
1987	\$76,650,000
1988	\$80,480,000
1989	\$88,510,000
1990	\$115,330,000
1991	\$145,470,000
1992	\$182,730,000
1993	\$206,520,000;

and means the Certified Annual Debt Service Requirement (as defined in Section 13 of the Build Illinois Bond Act) or the Tax Act Amount, whichever is greater, for fiscal year 1994 and each fiscal year thereafter; and further provided, that if on

the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year. The amounts payable into the Build Illinois Fund under clause (b) of the first sentence in this paragraph shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any

month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the first sentence of this paragraph and shall reduce the amount otherwise payable for such fiscal year pursuant to that clause (b). The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

Subject to payment of amounts into the Build Illinois Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of sums designated as "Total Deposit", shall be

deposited in the aggregate from collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act into the McCormick Place Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000

Public Act 103-0009

SB1963 Enrolled

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2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	300,000,000
2022	300,000,000
2023	300,000,000
2024	300,000,000
2025	300,000,000
2026	300,000,000
2027	375,000,000
2028	375,000,000
2029	375,000,000
2030	375,000,000
2031	375,000,000
2032	375,000,000
2033	375,000,000
2034	375,000,000
2035	375,000,000
2036	450,000,000

and

each fiscal year

thereafter that bonds  
are outstanding under  
Section 13.2 of the  
Metropolitan Pier and  
Exposition Authority Act,  
but not after fiscal year 2060.

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

Subject to payment of amounts into the Capital Projects Fund, the Clean Air Act Permit Fund, the Build Illinois Fund, and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, for aviation fuel sold on or after December 1, 2019, the Department shall each month deposit into the Aviation Fuel Sales Tax Refund Fund an amount estimated by the Department to



be required for refunds of the 80% portion of the tax on aviation fuel under this Act. The Department shall only deposit moneys into the Aviation Fuel Sales Tax Refund Fund under this paragraph for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the State.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning July 1, 1993 and ending on September 30, 2013, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic

Opportunity Law of the Civil Administrative Code of Illinois.

Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, and the Energy Infrastructure Fund pursuant to the preceding paragraphs or in any amendments to this Section hereafter enacted, beginning on the first day of the first calendar month to occur on or after August 26, 2014 (the effective date of Public Act 98-1098), each month, from the collections made under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation Tax Act, and Section 3 of the Retailers' Occupation Tax Act, the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department of Revenue, an amount equal to  $\frac{1}{12}$  of 5% of 80% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and associated local occupation and use taxes administered by the Department.

Subject to payments of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, beginning on July 1, 2018 the Department shall pay each month into the Downstate Public Transportation Fund the

moneys required to be so paid under Section 2-3 of the Downstate Public Transportation Act.

Subject to successful execution and delivery of a public-private agreement between the public agency and private entity and completion of the civic build, beginning on July 1, 2023, of the remainder of the moneys received by the Department under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and this Act, the Department shall deposit the following specified deposits in the aggregate from collections under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act, as required under Section 8.25g of the State Finance Act for distribution consistent with the Public-Private Partnership for Civic and Transit Infrastructure Project Act. The moneys received by the Department pursuant to this Act and required to be deposited into the Civic and Transit Infrastructure Fund are subject to the pledge, claim and charge set forth in Section 25-55 of the Public-Private Partnership for Civic and Transit Infrastructure Project Act. As used in this paragraph, "civic build", "private entity", "public-private agreement", and "public agency" have the meanings provided in Section 25-10 of the Public-Private Partnership for Civic and Transit Infrastructure Project Act.

Fiscal Year.....	Total Deposit
2024 .....	\$200,000,000
2025 .....	\$206,000,000

2026	.....	\$212,200,000
2027	.....	\$218,500,000
2028	.....	\$225,100,000
2029	.....	\$288,700,000
2030	.....	\$298,900,000
2031	.....	\$309,300,000
2032	.....	\$320,100,000
2033	.....	\$331,200,000
2034	.....	\$341,200,000
2035	.....	\$351,400,000
2036	.....	\$361,900,000
2037	.....	\$372,800,000
2038	.....	\$384,000,000
2039	.....	\$395,500,000
2040	.....	\$407,400,000
2041	.....	\$419,600,000
2042	.....	\$432,200,000
2043	.....	\$445,100,000

Beginning July 1, 2021 and until July 1, 2022, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 16% of the net

revenue realized from the taxes imposed on motor fuel and gasohol. Beginning July 1, 2022 and until July 1, 2023, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 32% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning July 1, 2023 and until July 1, 2024, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 48% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning July 1, 2024 and until July 1, 2025, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the

Department shall pay each month into the Road Fund the amount estimated to represent 64% of the net revenue realized from the taxes imposed on motor fuel and gasohol. Beginning on July 1, 2025, subject to the payment of amounts into the County and Mass Transit District Fund, the Local Government Tax Fund, the Build Illinois Fund, the McCormick Place Expansion Project Fund, the Illinois Tax Increment Fund, the Energy Infrastructure Fund, and the Tax Compliance and Administration Fund as provided in this Section, the Department shall pay each month into the Road Fund the amount estimated to represent 80% of the net revenue realized from the taxes imposed on motor fuel and gasohol. As used in this paragraph "motor fuel" has the meaning given to that term in Section 1.1 of the Motor Fuel Tax Law, and "gasohol" has the meaning given to that term in Section 3-40 of the Use Tax Act.

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

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice.

Such annual return to the Department shall include a statement of gross receipts as shown by the retailer's last Federal income tax return. If the total receipts of the business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the retailer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The retailer's annual return to the Department shall also disclose the cost of goods sold by the retailer during the year covered by such return, opening and closing inventories of such goods for such year, costs of goods used from stock or taken from stock and given away by the retailer during such year, payroll information of the retailer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such retailer as provided for in this Section.

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

- (i) Until January 1, 1994, the taxpayer shall be liable for a penalty equal to  $1/6$  of 1% of the tax due from such taxpayer under this Act during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required, the

penalty to be assessed and collected in the same manner as any other penalty provided for in this Act.

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

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

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

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount



paid out during that month as refunds to taxpayers for overpayment of liability.

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

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

Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants, as defined by Section 2 of the Transient Merchant Act of 1987, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section.

(Source: P.A. 101-10, Article 15, Section 15-25, eff. 6-5-19; 101-10, Article 25, Section 25-120, eff. 6-5-19; 101-27, eff. 6-25-19; 101-32, eff. 6-28-19; 101-604, eff. 12-13-19; 101-636, eff. 6-10-20; 102-634, eff. 8-27-21; 102-700, Article 60, Section 60-30, eff. 4-19-22; 102-700, Article 65, Section 65-10, eff. 4-19-22; 102-813, eff. 5-13-22; 102-1019, eff.

1-1-23; revised 12-13-22.)

ARTICLE 75. REV ILLINOIS PROGRAM

Section 75-5. The Reimagining Energy and Vehicles in Illinois Act is amended by changing Sections 20, 30, 40, and 45 as follows:

(20 ILCS 686/20)

Sec. 20. REV Illinois Program; project applications.

(a) The Reimagining Energy and Vehicles in Illinois (REV Illinois) Program is hereby established and shall be administered by the Department. The Program will provide financial incentives to any one or more of the following: (1) eligible manufacturers of electric vehicles, electric vehicle component parts, and electric vehicle power supply equipment; (2) battery recycling and reuse manufacturers; (3) battery raw materials refining service providers; or (4) renewable energy manufacturers.

(b) Any taxpayer planning a project to be located in Illinois may request consideration for designation of its project as a REV Illinois Project, by formal written letter of request or by formal application to the Department, in which the applicant states its intent to make at least a specified level of investment and intends to hire a specified number of full-time employees at a designated location in Illinois. As

circumstances require, the Department shall require a formal application from an applicant and a formal letter of request for assistance.

(c) In order to qualify for credits under the REV Illinois Program, an applicant must:

(1) if the applicant is an electric vehicle manufacturer:

(A) make an investment of at least \$1,500,000,000 in capital improvements at the project site;

(B) to be placed in service within the State within a 60-month period after approval of the application; and

(C) create at least 500 new full-time employee jobs; or

(2) if the applicant is an electric vehicle component parts manufacturer or a renewable energy manufacturer:

(A) make an investment of at least \$300,000,000 in capital improvements at the project site;

(B) manufacture one or more parts that are primarily used for electric vehicle manufacturing;

(C) to be placed in service within the State within a 60-month period after approval of the application; and

(D) create at least 150 new full-time employee jobs; or

(3) if the agreement is entered into before the

effective date of this amendatory Act of the 102nd General Assembly and the applicant is an electric vehicle manufacturer, an electric vehicle power supply equipment manufacturer, an electric vehicle component part manufacturer that does not qualify under paragraph (2) above, a battery recycling and reuse manufacturer, or a battery raw materials refining service provider:

(A) make an investment of at least \$20,000,000 in capital improvements at the project site;

(B) for electric vehicle component part manufacturers, manufacture one or more parts that are primarily used for electric vehicle manufacturing;

(C) to be placed in service within the State within a 48-month period after approval of the application; and

(D) create at least 50 new full-time employee jobs; or

(3.1) if the agreement is entered into on or after the effective date of this amendatory Act of the 102nd General Assembly and the applicant is an electric vehicle manufacturer, an electric vehicle power supply equipment manufacturer, an electric vehicle component part manufacturer that does not qualify under paragraph (2) above, a renewable energy manufacturer that does not qualify under paragraph (2) above, a battery recycling and reuse manufacturer, or a battery raw materials refining

service provider:

(A) make an investment of at least \$2,500,000 in capital improvements at the project site;

(B) in the case of electric vehicle component part manufacturers, manufacture one or more parts that are used for electric vehicle manufacturing;

(C) to be placed in service within the State within a 48-month period after approval of the application; and

(D) create the lesser of 50 new full-time employee jobs or new full-time employee jobs equivalent to 10% of the Statewide baseline applicable to the taxpayer and any related member at the time of application; or

(4) if the agreement is entered into before the effective date of this amendatory Act of the 102nd General Assembly and the applicant is an electric vehicle manufacturer or electric vehicle component parts manufacturer with existing operations within Illinois that intends to convert or expand, in whole or in part, the existing facility from traditional manufacturing to primarily electric vehicle manufacturing, electric vehicle component parts manufacturing, or electric vehicle power supply equipment manufacturing:

(A) make an investment of at least \$100,000,000 in capital improvements at the project site;

(B) to be placed in service within the State

within a 60-month period after approval of the application; and

(C) create the lesser of 75 new full-time employee jobs or new full-time employee jobs equivalent to 10% of the Statewide baseline applicable to the taxpayer and any related member at the time of application; ~~or~~

(4.1) if the agreement is entered into on or after the effective date of this amendatory Act of the 102nd General Assembly and the applicant (i) is an electric vehicle manufacturer, an electric vehicle component parts manufacturer, or a renewable energy manufacturer and (ii) has existing operations within Illinois that the applicant intends to convert or expand, in whole or in part, from traditional manufacturing to electric vehicle manufacturing, electric vehicle component parts manufacturing, renewable energy manufacturing, or electric vehicle power supply equipment manufacturing:

(A) make an investment of at least \$100,000,000 in capital improvements at the project site;

(B) to be placed in service within the State within a 60-month period after approval of the application; and

(C) create the lesser of 50 new full-time employee jobs or new full-time employee jobs equivalent to 10% of the Statewide baseline applicable to the taxpayer and any related member at the time of application; or

(5) if the agreement is entered into on or after the effective date of the changes made to this Section by this amendatory Act of the 103rd General Assembly and before June 1, 2024 and the applicant (i) is an electric vehicle manufacturer, an electric vehicle component parts manufacturer, or a renewable energy manufacturer or (ii) has existing operations within Illinois that the applicant intends to convert or expand, in whole or in part, from traditional manufacturing to electric vehicle manufacturing, electric vehicle component parts manufacturing, renewable energy manufacturing, or electric vehicle power supply equipment manufacturing:

(A) make an investment of at least \$500,000,000 in capital improvements at the project site;

(B) to be placed in service within the State within a 60-month period after approval of the application; and

(C) retain at least 800 full-time employee jobs at the project.

(d) For agreements entered into prior to April 19, 2022 (the effective date of Public Act 102-700), for any applicant creating the full-time employee jobs noted in subsection (c), those jobs must have a total compensation equal to or greater than 120% of the average wage paid to full-time employees in the county where the project is located, as determined by the U.S. Bureau of Labor Statistics. For agreements entered into



on or after April 19, 2022 (the effective date of Public Act 102-700), for any applicant creating the full-time employee jobs noted in subsection (c), those jobs must have a compensation equal to or greater than 120% of the average wage paid to full-time employees in a similar position within an occupational group in the county where the project is located, as determined by the Department.

(e) For any applicant, within 24 months after being placed in service, it must certify to the Department that it is carbon neutral or has attained certification under one of more of the following green building standards:

- (1) BREEAM for New Construction or BREEAM In-Use;
- (2) ENERGY STAR;
- (3) Envision;
- (4) ISO 50001 - energy management;
- (5) LEED for Building Design and Construction or LEED for Building Operations and Maintenance;
- (6) Green Globes for New Construction or Green Globes for Existing Buildings; or
- (7) UL 3223.

(f) Each applicant must outline its hiring plan and commitment to recruit and hire full-time employee positions at the project site. The hiring plan may include a partnership with an institution of higher education to provide internships, including, but not limited to, internships supported by the Clean Jobs Workforce Network Program, or

full-time permanent employment for students at the project site. Additionally, the applicant may create or utilize participants from apprenticeship programs that are approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training. The applicant may apply for apprenticeship education expense credits in accordance with the provisions set forth in 14 Ill. Adm. Code 522. Each applicant is required to report annually, on or before April 15, on the diversity of its workforce in accordance with Section 50 of this Act. For existing facilities of applicants under paragraph (3) of subsection (b) above, if the taxpayer expects a reduction in force due to its transition to manufacturing electric vehicle, electric vehicle component parts, or electric vehicle power supply equipment, the plan submitted under this Section must outline the taxpayer's plan to assist with retraining its workforce aligned with the taxpayer's adoption of new technologies and anticipated efforts to retrain employees through employment opportunities within the taxpayer's workforce.

(g) Each applicant must demonstrate a contractual or other relationship with a recycling facility, or demonstrate its own recycling capabilities, at the time of application and report annually a continuing contractual or other relationship with a recycling facility and the percentage of batteries used in electric vehicles recycled throughout the term of the agreement.

(h) A taxpayer may not enter into more than one agreement under this Act with respect to a single address or location for the same period of time. Also, a taxpayer may not enter into an agreement under this Act with respect to a single address or location for the same period of time for which the taxpayer currently holds an active agreement under the Economic Development for a Growing Economy Tax Credit Act. This provision does not preclude the applicant from entering into an additional agreement after the expiration or voluntary termination of an earlier agreement under this Act or under the Economic Development for a Growing Economy Tax Credit Act to the extent that the taxpayer's application otherwise satisfies the terms and conditions of this Act and is approved by the Department. An applicant with an existing agreement under the Economic Development for a Growing Economy Tax Credit Act may submit an application for an agreement under this Act after it terminates any existing agreement under the Economic Development for a Growing Economy Tax Credit Act with respect to the same address or location. If a project that is subject to an existing agreement under the Economic Development for a Growing Economy Tax Credit Act meets the requirements to be designated as a REV Illinois project under this Act, including for actions undertaken prior to the effective date of this Act, the taxpayer that is subject to that existing agreement under the Economic Development for a Growing Economy Tax Credit Act may apply to the Department to

amend the agreement to allow the project to become a designated REV Illinois project. Following the amendment, time accrued during which the project was eligible for credits under the existing agreement under the Economic Development for a Growing Economy Tax Credit Act shall count toward the duration of the credit subject to limitations described in Section 40 of this Act.

(i) If, at any time following the designation of a project as a REV Illinois Project by the Department and prior to the termination or expiration of an agreement under this Act, the project ceases to qualify as a REV Illinois project because the taxpayer is no longer an electric vehicle manufacturer, an electric vehicle component manufacturer, an electric vehicle power supply equipment manufacturer, a battery recycling and reuse manufacturer, or a battery raw materials refining service provider, that project may receive tax credit awards as described in Section 5-15 and Section 5-51 of the Economic Development for a Growing Economy Tax Credit Act, as long as the project continues to meet requirements to obtain those credits as described in the Economic Development for a Growing Economy Tax Credit Act and remains compliant with terms contained in the Agreement under this Act not related to their status as an electric vehicle manufacturer, an electric vehicle component manufacturer, an electric vehicle power supply equipment manufacturer, a battery recycling and reuse manufacturer, or a battery raw materials refining service

provider. Time accrued during which the project was eligible for credits under an agreement under this Act shall count toward the duration of the credit subject to limitations described in Section 5-45 of the Economic Development for a Growing Economy Tax Credit Act.

(Source: P.A. 102-669, eff. 11-16-21; 102-700, eff. 4-19-22; 102-1112, eff. 12-21-22; 102-1125, eff. 2-3-23.)

(20 ILCS 686/30)

Sec. 30. Tax credit awards.

(a) Subject to the conditions set forth in this Act, a taxpayer is entitled to a credit against the tax imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act for a taxable year beginning on or after January 1, 2025 if the taxpayer is awarded a credit by the Department in accordance with an agreement under this Act. The Department has authority to award credits under this Act on and after January 1, 2022.

(b) REV Illinois Credits. A taxpayer may receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, not to exceed the sum of (i) 75% of the incremental income tax attributable to new employees at the applicant's project and (ii) 10% of the training costs of the new employees. If the project is located in an underserved area or an energy transition area, then the amount of the credit may not exceed the sum of (i) 100% of the

incremental income tax attributable to new employees at the applicant's project; and (ii) 10% of the training costs of the new employees. The percentage of training costs includable in the calculation may be increased by an additional 15% for training costs associated with new employees that are recent (2 years or less) graduates, certificate holders, or credential recipients from an institution of higher education in Illinois, or, if the training is provided by an institution of higher education in Illinois, the Clean Jobs Workforce Network Program, or an apprenticeship and training program located in Illinois and approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training. An applicant is also eligible for a training credit that shall not exceed 10% of the training costs of retained employees for the purpose of upskilling to meet the operational needs of the applicant or the REV Illinois Project. The percentage of training costs includable in the calculation shall not exceed a total of 25%. If an applicant agrees to hire the required number of new employees, then the maximum amount of the credit for that applicant may be increased by an amount not to exceed 75% of the incremental income tax attributable to retained employees at the applicant's project; provided that, in order to receive the increase for retained employees, the applicant must, if applicable, meet or exceed the statewide baseline. For agreements entered into on or after the effective date of this

amendatory Act of the 103rd General Assembly and before June 1, 2024 that qualify under paragraph (5) of subsection (c) of Section 20, a taxpayer may receive a tax credit not to exceed 75% of the incremental income tax attributable to retained employees at the applicant's project. If the project is in an underserved area or an energy transition area and qualifies under paragraph (5) of subsection (c) of Section 20, then the maximum amount of the credit attributable to retained employees for the applicant may be increased to an amount not to exceed 100% of the incremental income tax attributable to retained employees at the applicant's project.

If the Project is in an underserved area or an energy transition area, the maximum amount of the credit attributable to retained employees for the applicant may be increased to an amount not to exceed 100% of the incremental income tax attributable to retained employees at the applicant's project; provided that, in order to receive the increase for retained employees, the applicant must meet or exceed the statewide baseline. REV Illinois Credits awarded may include credit earned for incremental income tax withheld and training costs incurred by the taxpayer beginning on or after January 1, 2022. Credits so earned and certified by the Department may be applied against the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act for taxable years beginning on or after January 1, 2025.

(c) REV Construction Jobs Credit. For construction wages

associated with a project that qualified for a REV Illinois Credit under subsection (b), the taxpayer may receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an amount equal to 50% of the incremental income tax attributable to construction wages paid in connection with construction of the project facilities, as a jobs credit for workers hired to construct the project.

The REV Construction Jobs Credit may not exceed 75% of the amount of the incremental income tax attributable to construction wages paid in connection with construction of the project facilities if the project is in an underserved area or an energy transition area.

(d) The Department shall certify to the Department of Revenue: (1) the identity of Taxpayers that are eligible for the REV Illinois Credit and REV Construction Jobs Credit; (2) the amount of the REV Illinois Credits and REV Construction Jobs Credits awarded in each calendar year; and (3) the amount of the REV Illinois Credit and REV Construction Jobs Credit claimed in each calendar year. REV Illinois Credits awarded may include credit earned for Incremental Income Tax withheld and Training Costs incurred by the Taxpayer beginning on or after January 1, 2022. Credits so earned and certified by the Department may be applied against the tax imposed by Section 201(a) and (b) of the Illinois Income Tax Act for taxable years beginning on or after January 1, 2025.



(e) Applicants seeking certification for a tax credits related to the construction of the project facilities in the State shall require the contractor to enter into a project labor agreement that conforms with the Project Labor Agreements Act.

(f) Any applicant issued a certificate for a tax credit or tax exemption under this Act must annually report to the Department the total project tax benefits received. Reports are due no later than May 31 of each year and shall cover the previous calendar year. The first report is for the 2022 calendar year and is due no later than May 31, 2023. For applicants issued a certificate of exemption under Section 105 of this Act, the report shall be the same as required for a High Impact Business under subsection (a-5) of Section 8.1 of the Illinois Enterprise Zone Act. Each person required to file a return under the Gas Revenue Tax Act, the Electricity Excise Tax Law, or the Telecommunications Excise Tax Act shall file a report containing information about customers that are issued an exemption certificate under Section 95 of this Act in the same manner and form as they are required to report under subsection (b) of Section 8.1 of the Illinois Enterprise Zone Act.

(g) Nothing in this Act shall prohibit an award of credit to an applicant that uses a PEO if all other award criteria are satisfied.

(h) With respect to any portion of a REV Illinois Credit

that is based on the incremental income tax attributable to new employees or retained employees, in lieu of the Credit allowed under this Act against the taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, a taxpayer that otherwise meets the criteria set forth in this Section, the taxpayer may elect to claim the credit, on or after January 1, 2025, against its obligation to pay over withholding under Section 704A of the Illinois Income Tax Act. The election shall be made in the manner prescribed by the Department of Revenue and once made shall be irrevocable.

(Source: P.A. 102-669, eff. 11-16-21; 102-1112, eff. 12-21-22; 102-1125, eff. 2-3-23; revised 4-5-23.)

(20 ILCS 686/40)

Sec. 40. Amount and duration of the credits; limitation to amount of costs of specified items. The Department shall determine the amount and duration of the REV Illinois Credit awarded under this Act, subject to the limitations set forth in this Act. For a project that qualified under paragraph (1), (2), (4), ~~or~~ (4.1), or (5) of subsection (c) of Section 20, the duration of the credit may not exceed 15 taxable years, with an option to renew the agreement for no more than one term not to exceed an additional 15 taxable years. For a project that qualified under paragraph (3) or (3.1) of subsection (c) of Section 20, the duration of the credit may not exceed 10 taxable years, with an option to renew the agreement for no

more than one term not to exceed an additional 10 taxable years. The credit may be stated as a percentage of the incremental income tax and training costs attributable to the applicant's project and may include a fixed dollar limitation.

Nothing in this Section shall prevent the Department, in consultation with the Department of Revenue, from adopting rules to extend the sunset of any earned, existing, and unused tax credit or credits a taxpayer may be in possession of, as provided for in Section 605-1055 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, notwithstanding the carry-forward provisions pursuant to paragraph (4) of Section 211 of the Illinois Income Tax Act.

(Source: P.A. 102-669, eff. 11-16-21; 102-1112, eff. 12-21-22; 102-1125, eff. 2-3-23; revised 4-5-23.)

(20 ILCS 686/45)

Sec. 45. Contents of agreements with applicants.

(a) The Department shall enter into an agreement with an applicant that is awarded a credit under this Act. The agreement shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the location and amount of the investment and jobs created or retained.

(2) The duration of the credit, the first taxable year for which the credit may be awarded, and the first taxable

year in which the credit may be used by the taxpayer.

(3) The credit amount that will be allowed for each taxable year.

(4) For a project qualified under paragraphs (1), (2), ~~or~~ (4), or (5) of subsection (c) of Section 20, a requirement that the taxpayer shall maintain operations at the project location a minimum number of years not to exceed 15. For a project qualified under paragraph (3) of subsection (c) of Section 20, a requirement that the taxpayer shall maintain operations at the project location a minimum number of years not to exceed 10.

(5) A specific method for determining the number of new employees and if applicable, retained employees, employed during a taxable year.

(6) A requirement that the taxpayer shall annually report to the Department the number of new employees, the incremental income tax withheld in connection with the new employees, and any other information the Department deems necessary and appropriate to perform its duties under this Act.

(7) A requirement that the Director is authorized to verify with the appropriate State agencies the amounts reported under paragraph (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide

written notification to the Director not more than 30 days after the taxpayer makes or receives a proposal that would transfer the taxpayer's State tax liability obligations to a successor taxpayer.

(9) A detailed description of the number of new employees to be hired, and the occupation and payroll of full-time jobs to be created or retained because of the project.

(10) The minimum investment the taxpayer will make in capital improvements, the time period for placing the property in service, and the designated location in Illinois for the investment.

(11) A requirement that the taxpayer shall provide written notification to the Director and the Director's designee not more than 30 days after the taxpayer determines that the minimum job creation or retention, employment payroll, or investment no longer is or will be achieved or maintained as set forth in the terms and conditions of the agreement. Additionally, the notification should outline to the Department the number of layoffs, date of the layoffs, and detail taxpayer's efforts to provide career and training counseling for the impacted workers with industry-related certifications and trainings.

(12) If applicable, a provision that, if the total number of new employees falls below a specified level, the

allowance of credit shall be suspended until the number of new employees equals or exceeds the agreement amount.

(13) If applicable, a provision that specifies the statewide baseline at the time of application for retained employees. The ~~Additionally, the~~ agreement must have a provision addressing if the total number of retained employees falls below the lesser of the statewide baseline or the retention requirements specified in the agreement, the allowance of the credit shall be suspended until the number of retained employees equals or exceeds the agreement amount.

(14) A detailed description of the items for which the costs incurred by the Taxpayer will be included in the limitation on the Credit provided in Section 40.

(15) If the agreement is entered into before the effective date of the changes made to this Section by this amendatory Act of the 103rd General Assembly, a ~~A~~ provision stating that if the taxpayer fails to meet either the investment or job creation and retention requirements specified in the agreement during the entire 5-year period beginning on the first day of the first taxable year in which the agreement is executed and ending on the last day of the fifth taxable year after the agreement is executed, then the agreement is automatically terminated on the last day of the fifth taxable year after the agreement is executed, and the taxpayer is not

entitled to the award of any credits for any of that 5-year period. If the agreement is entered into on or after the effective date of the changes made to this Section by this amendatory Act of the 103rd General Assembly, a provision stating that if the taxpayer fails to meet either the investment or job creation and retention requirements specified in the agreement during the entire 10-year period beginning on the effective date of the agreement and ending 10 years after the effective date of the agreement, then the agreement is automatically terminated, and the taxpayer is not entitled to the award of any credits for any of that 10-year period.

(16) A provision stating that if the taxpayer ceases principal operations with the intent to permanently shut down the project in the State during the term of the Agreement, then the entire credit amount awarded to the taxpayer prior to the date the taxpayer ceases principal operations shall be returned to the Department and shall be reallocated to the local workforce investment area in which the project was located.

(17) A provision stating that the Taxpayer must provide the reports outlined in Sections 50 and 55 on or before April 15 each year.

(18) A provision requiring the taxpayer to report annually its contractual obligations or otherwise with a recycling facility for its operations.

(19) Any other performance conditions or contract provisions the Department determines are necessary or appropriate.

(20) Each taxpayer under paragraph (1) of subsection (c) of Section 20 above shall maintain labor neutrality toward any union organizing campaign for any employees of the taxpayer assigned to work on the premises of the REV Illinois Project Site. This paragraph shall not apply to an electric vehicle manufacturer, electric vehicle component part manufacturer, electric vehicle power supply manufacturer, or renewable energy manufacturer, or any joint venture including an electric vehicle manufacturer, electric vehicle component part manufacturer, electric vehicle power supply manufacturer, or renewable energy manufacturer, who is subject to collective bargaining agreement entered into prior to the taxpayer filing an application pursuant to this Act.

(b) The Department shall post on its website the terms of each agreement entered into under this Act. Such information shall be posted within 10 days after entering into the agreement and must include the following:

- (1) the name of the taxpayer;
- (2) the location of the project;
- (3) the estimated value of the credit;
- (4) the number of new employee jobs and, if applicable, number of retained employee jobs at the



project; and

(5) whether or not the project is in an underserved area or energy transition area.

(Source: P.A. 102-669, eff. 11-16-21; 102-1125, eff. 2-3-23; revised 4-5-23.)

#### ARTICLE 80. CIGARETTE TAX

Section 80-5. The Cigarette Tax Act is amended by changing Section 2 as follows:

(35 ILCS 130/2) (from Ch. 120, par. 453.2)

Sec. 2. Tax imposed; rate; collection, payment, and distribution; discount.

(a) Beginning on July 1, 2019, in place of the aggregate tax rate of 99 mills previously imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 149 mills per cigarette sold or otherwise disposed of in the course of such business in this State.

(b) The payment of such taxes shall be evidenced by a stamp affixed to each original package of cigarettes, or an authorized substitute for such stamp imprinted on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, as hereinafter provided. However, such taxes are not imposed upon

any activity in such business in interstate commerce or otherwise, which activity may not under the Constitution and statutes of the United States be made the subject of taxation by this State.

Out of the 149 mills per cigarette tax imposed by subsection (a), until July 1, 2023, the revenues received from 4 mills shall be paid into the Common School Fund each month, not to exceed \$9,000,000 per month. Out of the 149 mills per cigarette tax imposed by subsection (a), until July 1, 2023, all of the revenues received from 7 mills shall be paid into the Common School Fund each month. Out of the 149 mills per cigarette tax imposed by subsection (a), until July 1, 2023, 50 mills per cigarette each month shall be paid into the Healthcare Provider Relief Fund.

Beginning on July 1, 2006 and until July 1, 2023, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund and, beginning on the effective date of this amendatory Act of the 97th General Assembly, other than the moneys from the additional taxes imposed by this amendatory Act of the 97th General Assembly that must be paid each month into the Healthcare Provider Relief Fund, and other than the moneys from the additional taxes imposed by this amendatory Act of the 101st General Assembly that must be paid each month under subsection (c), shall be distributed each month as follows: first, there shall

be paid into the General Revenue Fund an amount that, when added to the amount paid into the Common School Fund for that month, equals \$29,200,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then from the moneys remaining, \$5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund. Any amounts required to be paid into the General Revenue Fund, the School Infrastructure Fund, the Long-Term Care Provider Fund, the Common School Fund, the Capital Projects Fund, or the Healthcare Provider Relief Fund under this subsection that remain unpaid as of July 1, 2023 shall be deemed satisfied on that date, eliminating any deficiency accrued through that date.

(c) Beginning on July 1, 2019 and until July 1, 2023, all of the moneys from the additional taxes imposed by Public Act 101-31, except for moneys received from the tax on electronic cigarettes, received by the Department of Revenue pursuant to this Act, the Cigarette Use Tax Act, and the Tobacco Products Tax Act of 1995 shall be distributed each month into the Capital Projects Fund.

(c-5) Beginning on July 1, 2023, all of the moneys received by the Department of Revenue pursuant to (i) this Act, (ii) the Cigarette Use Tax Act, and (iii) the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995 shall be paid each month as follows:

- (1) 7% into the Common School Fund;
- (2) 34% into the Healthcare Provider Relief Fund;
- (3) 34% into the Capital Projects Fund; and
- (4) 25% into the General Revenue Fund.

(d) Until July 1, 2023, except ~~Except~~ for moneys received from the additional taxes imposed by Public Act 101-31, moneys collected from the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995 shall be included with the moneys collected under the Cigarette Tax Act and the Cigarette Use Tax Act when making distributions to the Common School Fund, the Healthcare Provider Relief Fund, the General Revenue Fund, the School Infrastructure Fund, and the Long-Term Care Provider Fund under this Section. Any amounts, including moneys collected from the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995, that are required to be paid into the General Revenue Fund, the School Infrastructure Fund, the Long-Term Care Provider Fund, the Common School Fund, the Capital Projects Fund, or the Healthcare Provider Relief Fund under subsection (b) that remain unpaid as of July 1, 2023 shall be deemed satisfied on that date, eliminating any deficiency accrued

through that date. Beginning on July 1, 2023, moneys collected from the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995 shall be included with the moneys collected under the Cigarette Tax Act and the Cigarette Use Tax Act when making distributions under subsections (c-5).

(e) If the tax imposed herein terminates or has terminated, distributors who have bought stamps while such tax was in effect and who therefore paid such tax, but who can show, to the Department's satisfaction, that they sold the cigarettes to which they affixed such stamps after such tax had terminated and did not recover the tax or its equivalent from purchasers, shall be allowed by the Department to take credit for such absorbed tax against subsequent tax stamp purchases from the Department by such distributor.

(f) The impact of the tax levied by this Act is imposed upon the retailer and shall be prepaid or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as hereinafter provided. Any distributor who purchases stamps may credit any excess payments verified by the Department against amounts subsequently due for the purchase of additional stamps, until such time as no excess payment remains.

(g) Each distributor shall collect the tax from the

retailer at or before the time of the sale, shall affix the stamps as hereinafter required, and shall remit the tax collected from retailers to the Department, as hereinafter provided. Any distributor who fails to properly collect and pay the tax imposed by this Act shall be liable for the tax.

(h) Any distributor having cigarettes in his or her possession on July 1, 2019 to which tax stamps have been affixed, and any distributor having stamps in his or her possession on July 1, 2019 that have not been affixed to packages of cigarettes before July 1, 2019, is required to pay the additional tax that begins on July 1, 2019 imposed by this amendatory Act of the 101st General Assembly to the extent that the volume of affixed and unaffixed stamps in the distributor's possession on July 1, 2019 exceeds the average monthly volume of cigarette stamps purchased by the distributor in calendar year 2018. This payment, less the discount provided in subsection (l), is due when the distributor first makes a purchase of cigarette stamps on or after July 1, 2019 or on the first due date of a return under this Act occurring on or after July 1, 2019, whichever occurs first. Those distributors may elect to pay the additional tax on packages of cigarettes to which stamps have been affixed and on any stamps in the distributor's possession that have not been affixed to packages of cigarettes in their possession on July 1, 2019 over a period not to exceed 12 months from the due date of the additional tax by notifying the Department in

writing. The first payment for distributors making such election is due when the distributor first makes a purchase of cigarette tax stamps on or after July 1, 2019 or on the first due date of a return under this Act occurring on or after July 1, 2019, whichever occurs first. Distributors making such an election are not entitled to take the discount provided in subsection (l) on such payments.

(i) Any retailer having cigarettes in its possession on July 1, 2019 to which tax stamps have been affixed is not required to pay the additional tax that begins on July 1, 2019 imposed by this amendatory Act of the 101st General Assembly on those stamped cigarettes.

(j) Distributors making sales of cigarettes to secondary distributors shall add the amount of the tax to the price of the cigarettes sold by the distributors. Secondary distributors making sales of cigarettes to retailers shall include the amount of the tax in the price of the cigarettes sold to retailers. The amount of tax shall not be less than the amount of taxes imposed by the State and all local jurisdictions. The amount of local taxes shall be calculated based on the location of the retailer's place of business shown on the retailer's certificate of registration or sub-registration issued to the retailer pursuant to Section 2a of the Retailers' Occupation Tax Act. The original packages of cigarettes sold to the retailer shall bear all the required stamps, or other indicia, for the taxes included in the price

of cigarettes.

(k) The amount of the Cigarette Tax imposed by this Act shall be separately stated, apart from the price of the goods, by distributors, manufacturer representatives, secondary distributors, and retailers, in all bills and sales invoices.

(l) The distributor shall be required to collect the tax provided under paragraph (a) hereof, and, to cover the costs of such collection, shall be allowed a discount during any year commencing July 1st and ending the following June 30th in accordance with the schedule set out hereinbelow, which discount shall be allowed at the time of purchase of the stamps when purchase is required by this Act, or at the time when the tax is remitted to the Department without the purchase of stamps from the Department when that method of paying the tax is required or authorized by this Act.

On and after December 1, 1985, a discount equal to 1.75% of the amount of the tax payable under this Act up to and including the first \$3,000,000 paid hereunder by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply.

Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.



(m) The taxes herein imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, or by any political subdivision thereof, or by any municipal corporation.

(Source: P.A. 100-1171, eff. 1-4-19; 101-31, eff. 6-28-19; 101-604, eff. 12-13-19.)

#### ARTICLE 85. USE AND OCCUPATION TAXES

Section 85-5. The Use Tax Act is amended by changing Section 12 as follows:

(35 ILCS 105/12) (from Ch. 120, par. 439.12)

Sec. 12. Applicability of Retailers' Occupation Tax Act and Uniform Penalty and Interest Act. All of the provisions of Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2-12, 2-54, 2a, 2b, 2c, 3, 4 (except that the time limitation provisions shall run from the date when the tax is due rather than from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuance of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received and except that in the case of a failure to file a return required by this Act, no notice of tax liability shall be issued on and after each July 1 and January 1 covering tax due with that return during any month or period more than 6

years before that July 1 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5j, 5k, 5l, 5m, 5n, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, which are not inconsistent with this Act, shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein.

(Source: P.A. 102-700, eff. 4-19-22.)

Section 85-10. The Service Use Tax Act is amended by changing Section 12 as follows:

(35 ILCS 110/12) (from Ch. 120, par. 439.42)

Sec. 12. Applicability of Retailers' Occupation Tax Act and Uniform Penalty and Interest Act. All of the provisions of Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2-12, 2-54, 2a, 2b, 2c, 3 (except as to the disposition by the Department of the money collected under this Act), 4 (except that the time limitation provisions shall run from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuance of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received and except that in the case of a failure to file a return required by this Act, no notice of tax liability shall be issued on and after July 1 and January 1 covering tax due with that return during

any month or period more than 6 years before that July 1 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 5m, 5n, 6d, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation Tax Act which are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act, shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein. (Source: P.A. 102-700, eff. 4-19-22.)

Section 85-15. The Service Occupation Tax Act is amended by changing Section 12 as follows:

(35 ILCS 115/12) (from Ch. 120, par. 439.112)

Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2-12, 2-54, 2a, 2b, 2c, 3 (except as to the disposition by the Department of the tax collected under this Act), 4 (except that the time limitation provisions shall run from the date when the tax is due rather than from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuance of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 5m, 5n, 6d, 7, 8, 9, 10, 11 and 12 of the "Retailers' Occupation Tax Act" which are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act shall apply, as far as

practicable, to the subject matter of this Act to the same extent as if such provisions were included herein.

(Source: P.A. 102-700, eff. 4-19-22.)

ARTICLE 90. MUNICIPAL USE AND OCCUPATION TAXES

Section 90-5. The Illinois Municipal Code is amended by changing Sections 8-11-1.4 and 8-11-1.5 as follows:

(65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon all persons engaged, in such municipality, in the business of making sales of service for expenditure on public infrastructure or for property tax relief or both as defined in Section 8-11-1.2 if approved by referendum as provided in Section 8-11-1.1, of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. If the tax is approved by referendum on or after July 14, 2010 (the effective date of Public Act 96-1057), the corporate authorities of a non-home rule municipality may, until December 31, 2030 ~~December 31, 2020~~, use the proceeds of the tax for expenditure on municipal operations, in addition to or in lieu of any expenditure on public infrastructure or for

property tax relief. The tax imposed may not be more than 1% and may be imposed only in 1/4% increments. The tax may not be imposed on tangible personal property taxed at the 1% rate under the Service Occupation Tax Act (or at the 0% rate imposed under this amendatory Act of the 102nd General Assembly). Beginning December 1, 2019, this tax is not imposed on sales of aviation fuel unless the tax revenue is expended for airport-related purposes. If a municipality does not have an airport-related purpose to which it dedicates aviation fuel tax revenue, then aviation fuel is excluded from the tax. Each municipality must comply with the certification requirements for airport-related purposes under Section 2-22 of the Retailers' Occupation Tax Act. For purposes of this Section, "airport-related purposes" has the meaning ascribed in Section 6z-20.2 of the State Finance Act. This exclusion for aviation fuel only applies for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the municipality. The tax imposed by a municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit such registrant to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the

Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the taxing municipality), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the taxing municipality), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this municipal tax may not be taken against any State tax, and except that the retailer's discount is not allowed for taxes paid on aviation fuel that are subject to the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any

reference to the State shall mean the taxing municipality), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

No municipality may impose a tax under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.3 of this Code.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their serviceman's tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the municipal retailers' occupation tax fund or the Local Government Aviation Trust Fund, as appropriate.

Except as otherwise provided in this paragraph, the

Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder for deposit into the municipal retailers' occupation tax fund. Taxes and penalties collected on aviation fuel sold on or after December 1, 2019, shall be immediately paid over by the Department to the State Treasurer, ex officio, as trustee, for deposit into the Local Government Aviation Trust Fund. The Department shall only pay moneys into the Local Government Aviation Trust Fund under this Section for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the municipality.

As soon as possible after the first day of each month, beginning January 1, 2011, upon certification of the Department of Revenue, the Comptroller shall order transferred, and the Treasurer shall transfer, to the STAR Bonds Revenue Fund the local sales tax increment, as defined in the Innovation Development and Economy Act, collected under this Section during the second preceding calendar month for sales within a STAR bond district.

After the monthly transfer to the STAR Bonds Revenue Fund, on or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which suppliers and servicemen have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The



amount to be paid to each municipality shall be the amount (not including credit memoranda and not including taxes and penalties collected on aviation fuel sold on or after December 1, 2019) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, and not including any amounts that are transferred to the STAR Bonds Revenue Fund, less 1.5% of the remainder, which the Department shall transfer into the Tax Compliance and Administration Fund. The Department, at the time of each monthly disbursement to the municipalities, shall prepare and certify to the State Comptroller the amount to be transferred into the Tax Compliance and Administration Fund under this Section. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities, the General Revenue Fund, and the Tax Compliance and Administration Fund provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

The Department of Revenue shall implement Public Act 91-649 so as to collect the tax on and after January 1, 2002.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in

any business which under the constitution of the United States may not be made the subject of taxation by this State.

As used in this Section, "municipal" or "municipality" means or refers to a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Service Occupation Tax Act".

(Source: P.A. 101-10, eff. 6-5-19; 101-81, eff. 7-12-19; 101-604, eff. 12-13-19; 102-700, eff. 4-19-22.)

(65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon the privilege of using, in such municipality, any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of this State's government, based on the selling price of such tangible personal property, as "selling price" is defined in the Use Tax Act, for expenditure on public infrastructure or for property tax relief or both as defined in Section 8-11-1.2, if approved by referendum as provided in Section 8-11-1.1. If the tax is approved by referendum on or after the effective date of this amendatory Act of the 96th General Assembly, the corporate authorities of a non-home rule municipality may, until December 31, 2030

~~December 31, 2020~~, use the proceeds of the tax for expenditure on municipal operations, in addition to or in lieu of any expenditure on public infrastructure or for property tax relief. The tax imposed may not be more than 1% and may be imposed only in 1/4% increments. Such tax shall be collected from persons whose Illinois address for title or registration purposes is given as being in such municipality. Such tax shall be collected by the municipality imposing such tax. A non-home rule municipality may not impose and collect the tax prior to January 1, 2002.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Use Tax Act".

(Source: P.A. 96-1057, eff. 7-14-10; 97-837, eff. 7-20-12.)

#### ARTICLE 95. VOLUNTEER EMERGENCY WORKERS

Section 95-5. The Illinois Administrative Procedure Act is amended by adding Section 5-45.36 as follows:

(5 ILCS 100/5-45.36 new)

Sec. 5-45.36. Emergency rulemaking. To provide for the expeditious and timely implementation of Section 234 of the Illinois Income Tax Act, emergency rules implementing that Section may be adopted in accordance with Section 5-45 by the Department of Revenue. The adoption of emergency rules authorized by Section 5-45 and this Section is deemed to be

necessary for the public interest, safety, and welfare.

This Section is repealed one year after the effective date of this amendatory Act of the 103rd General Assembly.

Section 95-10. The Illinois Income Tax Act is amended by adding Section 234 as follows:

(35 ILCS 5/234 new)

Sec. 234. Volunteer emergency workers.

(a) For taxable years beginning on or after January 1, 2023 and beginning prior to January 1, 2028, each individual who (i) serves as a volunteer emergency worker for at least 9 months during the taxable year and (ii) does not receive compensation for his or her services as a volunteer emergency worker of more than \$5,000 for the taxable year may apply to the Department for a credit against the taxes imposed by subsections (a) and (b) of Section 201. The amount of the credit shall be \$500 per eligible individual. The aggregate amount of all tax credits awarded by the Department under this Section in any calendar year may not exceed \$5,000,000. Credits shall be awarded on a first-come first-served basis.

(b) A credit under this Section may not reduce a taxpayer's liability to less than zero.

(c) By January 24 of each year, the Office of the State Fire Marshal shall provide the Department of Revenue an electronic file with the names of volunteer emergency workers

who (i) volunteered for at least 9 months during the immediately preceding calendar year, (ii) did not receive compensation for their services as a volunteer emergency worker of more than \$5,000 during the immediately preceding calendar year, and (iii) are registered with the Office of the State Fire Marshal as of January 12 of the current year as meeting the requirements of items (i) and (ii) for the immediately preceding calendar year. The chief of the fire department, fire protection district, or fire protection association shall be responsible for notifying the State Fire Marshal of the volunteer emergency workers who met the requirements of items (i) and (ii) during the immediately preceding calendar year by January 12 of the current year. Notification shall be required in the format required by the State Fire Marshal. The chief of the fire department, fire protection district, or fire protection association shall be responsible for the verification and accuracy of their submission to the State Fire Marshal under this subsection.

(d) As used in this Section, "volunteer emergency worker" means a person who serves as a member, other than on a full-time career basis, of a fire department, fire protection district, or fire protection association that has a Fire Department Identification Number issued by the Office of the State Fire Marshal and who does not serve as a member on a full-time career basis for another fire department, fire protection district, fire protection association, or

governmental entity.

(e) The Department shall adopt rules to implement and administer this Section, including rules concerning applications for the tax credit.

ARTICLE 100. USE AND OCCUPATION TAX ASSESSMENTS

Section 100-5. The Retailers' Occupation Tax Act is amended by changing Section 4 as follows:

(35 ILCS 120/4) (from Ch. 120, par. 443)

Sec. 4. As soon as practicable after any return is filed, the Department shall examine such return and shall, if necessary, correct such return according to its best judgment and information. If the correction of a return results in an amount of tax that is understated on the taxpayer's return due to a mathematical error, the Department shall notify the taxpayer that the amount of tax in excess of that shown on the return is due and has been assessed. The term "mathematical error" means arithmetic errors or incorrect computations on the return or supporting schedules. No such notice of additional tax due shall be issued on and after each July 1 and January 1 covering gross receipts received during any month or period of time more than 3 years prior to such July 1 and January 1, respectively. Such notice of additional tax due shall not be considered a notice of tax liability nor shall the

taxpayer have any right of protest. In the event that the return is corrected for any reason other than a mathematical error, any return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. In correcting transaction by transaction reporting returns provided for in Section 3 of this Act, it shall be permissible for the Department to show a single corrected return figure for any given period of a calendar month instead of having to correct each transaction by transaction return form individually and having to show a corrected return figure for each of such transaction by transaction return forms. In making a correction of transaction by transaction, monthly or quarterly returns covering a period of 6 months or more, it shall be permissible for the Department to show a single corrected return figure for any given 6-month period.

Instead of requiring the person filing such return to file an amended return, the Department may simply notify him of the correction or corrections it has made.

Proof of such correction by the Department may be made at any hearing before the Department or the Illinois Independent Tax Tribunal or in any legal proceeding by a reproduced copy or computer print-out of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. If reproduced copies of the Department's records are offered as proof of such correction, the Director

must certify that those copies are true and exact copies of records on file with the Department. If computer print-outs of the Department's records are offered as proof of such correction, the Director must certify that those computer print-outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Department's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. Such certified reproduced copy or certified computer print-out shall without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein.

If the tax computed upon the basis of the gross receipts as fixed by the Department is greater than the amount of tax due under the return or returns as filed, the Department shall (or if the tax or any part thereof that is admitted to be due by a return or returns, whether filed on time or not, is not paid, the Department may) issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Section 3-3 of the Uniform Penalty and Interest Act. Provided, that if the incorrectness of any return or returns as determined by the Department is due to negligence or fraud, said penalty shall be in an amount



determined in accordance with Section 3-5 or Section 3-6 of the Uniform Penalty and Interest Act, as the case may be. If the notice of tax liability is not based on a correction of the taxpayer's return or returns, but is based on the taxpayer's failure to pay all or a part of the tax admitted by his return or returns (whether filed on time or not) to be due, such notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein.

Proof of such notice of tax liability by the Department may be made at any hearing before the Department or the Illinois Independent Tax Tribunal or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein.

If the person filing any return dies or becomes a person under legal disability at any time before the Department issues its notice of tax liability, such notice shall be issued to the administrator, executor or other legal representative, as such, of such person.

Except in case of a fraudulent return, or in the case of an amended return (where a notice of tax liability may be issued on or after each January 1 and July 1 for an amended return

filed not more than 3 years prior to such January 1 or July 1, respectively), no notice of tax liability shall be issued on and after each January 1 and July 1 covering gross receipts received during any month or period of time more than 3 years prior to such January 1 and July 1, respectively. If, before the expiration of the time prescribed in this Section for the issuance of a notice of tax liability, both the Department and the taxpayer have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The foregoing limitations upon the issuance of a notice of tax liability shall not apply to the issuance of a notice of tax liability with respect to any period of time prior thereto in cases where the Department has, within the period of limitation then provided, notified the person making the return of a notice of tax liability even though such return, with which the tax that was shown by such return to be due was paid when the return was filed, had not been corrected by the Department in the manner required herein prior to the issuance of such notice, but in no case shall the amount of any such notice of tax liability for any period otherwise barred by this Act exceed for such period the amount shown in the notice of tax liability theretofore issued.

If, when a tax or penalty under this Act becomes due and

payable, the person alleged to be liable therefor is out of the State, the notice of tax liability may be issued within the times herein limited after his coming into or return to the State; and if, after the tax or penalty under this Act becomes due and payable, the person alleged to be liable therefor departs from and remains out of the State, the time of his or her absence is no part of the time limited for the issuance of the notice of tax liability; but the foregoing provisions concerning absence from the State shall not apply to any case in which, at the time when a tax or penalty becomes due under this Act, the person allegedly liable therefor is not a resident of this State.

The time limitation period on the Department's right to issue a notice of tax liability shall not run during any period of time in which the Order of any Court has the effect of enjoining or restraining the Department from issuing the notice of tax liability.

If such person or legal representative shall within 60 days after such notice of tax liability file a protest to said notice of tax liability with the Department and request a hearing thereon, the Department shall give notice to such person or legal representative of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue to such person or legal representative a final assessment for the amount found to be due as a result of such hearing. On or after

July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Illinois Independent Tax Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. The Tribunal shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable.

If a protest to the notice of tax liability and a request for a hearing thereon is not filed within 60 days after such notice, such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

Notwithstanding any other provisions of this Act, any amount paid as tax or in respect of tax paid under this Act, other than amounts paid as quarter-monthly payments, shall be deemed assessed upon the date of receipt of payment.

After the issuance of a final assessment, or a notice of tax liability which becomes final without the necessity of

actually issuing a final assessment as hereinbefore provided, the Department, at any time before such assessment is reduced to judgment, may (subject to rules of the Department) grant a rehearing (or grant departmental review and hold an original hearing if no previous hearing in the matter has been held) upon the application of the person aggrieved. Pursuant to such hearing or rehearing, the Department shall issue a revised final assessment to such person or his legal representative for the amount found to be due as a result of such hearing or rehearing.

(Source: P.A. 97-1129, eff. 8-28-12.)

Section 100-10. The Cigarette Machine Operators' Occupation Tax Act is amended by changing Section 1-45 as follows:

(35 ILCS 128/1-45)

Sec. 1-45. Examination and correction of returns.

(a) As soon as practicable after any return is filed, the Department shall examine that return and shall correct the return according to its best judgment and information, which return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown on the corrected return. Instead of requiring the cigarette machine operator to file an amended return, the Department may simply notify the cigarette

machine operator of the correction or corrections it has made. Proof of the correction by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown on the reproduced copy. If the Department finds that any amount of tax is due from the cigarette machine operator, the Department shall issue the cigarette machine operator a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If, in administering the provisions of this Act, comparison of a return or returns of a cigarette machine operator with the books, records, and inventories of such cigarette machine operator discloses a deficiency that cannot be allocated by the Department to a particular month or months, the Department shall issue the cigarette machine operator a notice of tax liability for the amount of tax claimed by the Department to be due for a given period, but without any obligation upon the Department to allocate that deficiency to any particular month or months, together with a penalty in an amount determined in accordance with Sections

3-3, 3-5, and 3-6 of the Uniform Penalty and Interest Act, under which circumstances the aforesaid notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein; and proof of such correctness may be made in accordance with, and the admissibility of a reproduced copy of such notice of tax liability shall be governed by, all the provisions of this Act applicable to corrected returns. If any cigarette machine operator filing any return dies or becomes a person under legal disability at any time before the Department issues its notice of tax liability, such notice shall be issued to the administrator, executor, or other legal representative of the cigarette machine operator.

(b) If, within 60 days after such notice of tax liability, the cigarette machine operator or his or her legal representative files a written protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such cigarette machine operator or legal representative of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such cigarette machine operator or legal representative for the amount found to be due as a result of such hearing. If a written protest to the notice of tax liability and a request for a hearing thereon is not filed within 60 days after such notice of tax liability, such notice of tax liability shall

become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

(c) In case of failure to pay the tax, or any portion thereof, or any penalty provided for in this Act, when due, the Department may bring suit to recover the amount of such tax, or portion thereof, or penalty; or, if the taxpayer dies or becomes incompetent, by filing claim therefore against his or her estate; provided that no such action with respect to any tax, or portion thereof, or penalty, shall be instituted more than 2 years after the cause of action accrues, except with the consent of the person from whom such tax or penalty is due.

After the expiration of the period within which the person assessed may file an action for judicial review under the Administrative Review Law without such an action being filed, a certified copy of the final assessment or revised final assessment of the Department may be filed with the circuit court of the county in which the taxpayer has his or her principal place of business, or of Sangamon County in those cases in which the taxpayer does not have his or her principal place of business in this State. The certified copy of the final assessment or revised final assessment shall be accompanied by a certification which recites facts that are sufficient to show that the Department complied with the jurisdictional requirements of the law in arriving at its final assessment or its revised final assessment and that the taxpayer had his or her opportunity for an administrative



hearing and for judicial review, whether he or she availed himself or herself of either or both of these opportunities or not. If the court is satisfied that the Department complied with the jurisdictional requirements of the law in arriving at its final assessment or its revised final assessment and that the taxpayer had his or her opportunity for an administrative hearing and for judicial review, whether he or she availed himself or herself of either or both of these opportunities or not, the court shall enter judgment in favor of the Department and against the taxpayer for the amount shown to be due by the final assessment or the revised final assessment, and such judgment shall be filed of record in the court. Such judgment shall bear the rate of interest set in the Uniform Penalty and Interest Act, but otherwise shall have the same effect as other judgments. The judgment may be enforced, and all laws applicable to sales for the enforcement of a judgment shall be applicable to sales made under such judgments. The Department shall file the certified copy of its assessment, as herein provided, with the circuit court within 2 years after such assessment becomes final except when the taxpayer consents in writing to an extension of such filing period.

If, when the cause of action for a proceeding in court accrues against a person, he or she is out of the State, the action may be commenced within the times herein limited, after his or her coming into or returning to the State; and if, after the cause of action accrues, he or she departs from and remains

out of the State, the time of his or her absence is no part of the time limited for the commencement of the action; but the foregoing provisions concerning absence from the State shall not apply to any case in which, at the time the cause of action accrues, the party against whom the cause of action accrues is not a resident of this State. The time within which a court action is to be commenced by the Department hereunder shall not run while the taxpayer is a debtor in any proceeding under the federal Bankruptcy Code nor thereafter until 90 days after the Department is notified by such debtor of being discharged in bankruptcy.

No claim shall be filed against the estate of any deceased person or a person under legal disability for any tax or penalty or part of either except in the manner prescribed and within the time limited by the Probate Act of 1975.

The remedies provided for herein shall not be exclusive, but all remedies available to creditors for the collection of debts shall be available for the collection of any tax or penalty due hereunder.

The collection of tax or penalty by any means provided for herein shall not be a bar to any prosecution under this Act.

The certificate of the Director of the Department to the effect that a tax or amount required to be paid by this Act has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof.

Notwithstanding any other provisions of this Act, any amount paid as tax or in respect of tax paid under this Act shall be deemed assessed upon the date of receipt of payment.

All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are not inconsistent with this Act, shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein. References in such incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling tangible personal property shall mean cigarette machine operator when used in this Act.

(Source: P.A. 97-688, eff. 6-14-12.)

Section 100-15. The Cigarette Tax Act is amended by changing Section 9a as follows:

(35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

Sec. 9a. Examination and correction of returns.

(1) As soon as practicable after any return is filed, the Department shall examine such return and shall correct such return according to its best judgment and information, which return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. Instead of requiring the distributor to file an amended return, the

Department may simply notify the distributor of the correction or corrections it has made. Proof of such correction by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. If the Department finds that any amount of tax is due from the distributor, the Department shall issue the distributor a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If, in administering the provisions of this Act, comparison of a return or returns of a distributor with the books, records and inventories of such distributor discloses a deficiency which cannot be allocated by the Department to a particular month or months, the Department shall issue the distributor a notice of tax liability for the amount of tax claimed by the Department to be due for a given period, but without any obligation upon the Department to allocate such deficiency to any particular month or months, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, under

which circumstances the aforesaid notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein; and proof of such correctness may be made in accordance with, and the admissibility of a reproduced copy of such notice of tax liability shall be governed by, all the provisions of this Act applicable to corrected returns. If any distributor filing any return dies or becomes a person under legal disability at any time before the Department issues its notice of tax liability, such notice shall be issued to the administrator, executor or other legal representative, as such, of such distributor.

(2) Except as otherwise provided in this Section, if, within 60 days after such notice of tax liability, the distributor or his or her legal representative files a protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such distributor or legal representative of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such distributor or legal representative for the amount found to be due as a result of such hearing. On or after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning

those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. If a protest to the notice of tax liability and a request for a hearing thereon is not filed within the time allowed by law, such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

(3) In case of failure to pay the tax, or any portion thereof, or any penalty provided for in this Act, when due, the Department may bring suit to recover the amount of such tax, or portion thereof, or penalty; or, if the taxpayer dies or becomes incompetent, by filing claim therefor against his estate; provided that no such action with respect to any tax, or portion thereof, or penalty, shall be instituted more than 2 years after the cause of action accrues, except with the consent of the person from whom such tax or penalty is due.

After the expiration of the period within which the person assessed may file an action for judicial review under the Administrative Review Law without such an action being filed,

a certified copy of the final assessment or revised final assessment of the Department may be filed with the Circuit Court of the county in which the taxpayer has his or her principal place of business, or of Sangamon County in those cases in which the taxpayer does not have his principal place of business in this State. The certified copy of the final assessment or revised final assessment shall be accompanied by a certification which recites facts that are sufficient to show that the Department complied with the jurisdictional requirements of the Law in arriving at its final assessment or its revised final assessment and that the taxpayer had his or her opportunity for an administrative hearing and for judicial review, whether he availed himself or herself of either or both of these opportunities or not. If the court is satisfied that the Department complied with the jurisdictional requirements of the Law in arriving at its final assessment or its revised final assessment and that the taxpayer had his or her opportunity for an administrative hearing and for judicial review, whether he or she availed himself or herself of either or both of these opportunities or not, the court shall enter judgment in favor of the Department and against the taxpayer for the amount shown to be due by the final assessment or the revised final assessment, and such judgment shall be filed of record in the court. Such judgment shall bear the rate of interest set in the Uniform Penalty and Interest Act, but otherwise shall have the same effect as other judgments. The

judgment may be enforced, and all laws applicable to sales for the enforcement of a judgment shall be applicable to sales made under such judgments. The Department shall file the certified copy of its assessment, as herein provided, with the Circuit Court within 2 years after such assessment becomes final except when the taxpayer consents in writing to an extension of such filing period.

If, when the cause of action for a proceeding in court accrues against a person, he or she is out of the State, the action may be commenced within the times herein limited, after his or her coming into or return to the State; and if, after the cause of action accrues, he or she departs from and remains out of the State, the time of his or her absence is no part of the time limited for the commencement of the action; but the foregoing provisions concerning absence from the State shall not apply to any case in which, at the time the cause of action accrues, the party against whom the cause of action accrues is not a resident of this State. The time within which a court action is to be commenced by the Department hereunder shall not run while the taxpayer is a debtor in any proceeding under the Federal Bankruptcy Act nor thereafter until 90 days after the Department is notified by such debtor of being discharged in bankruptcy.

No claim shall be filed against the estate of any deceased person or a person under legal disability for any tax or penalty or part of either except in the manner prescribed and



within the time limited by the Probate Act of 1975, as amended.

The remedies provided for herein shall not be exclusive, but all remedies available to creditors for the collection of debts shall be available for the collection of any tax or penalty due hereunder.

The collection of tax or penalty by any means provided for herein shall not be a bar to any prosecution under this Act.

The certificate of the Director of the Department to the effect that a tax or amount required to be paid by this Act has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof.

Notwithstanding any other provisions of this Act, any amount paid as tax or in respect of tax paid under this Act shall be deemed assessed upon the date of receipt of payment.

All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein. References in such incorporated Sections of the "Retailers' Occupation Tax Act" to retailers, to sellers or to persons engaged in the business of selling tangible personal property shall mean distributors when used in this Act.

(Source: P.A. 97-1129, eff. 8-28-12; 98-463, eff. 8-16-13.)

Section 100-20. The Cigarette Use Tax Act is amended by changing Section 13 as follows:

(35 ILCS 135/13) (from Ch. 120, par. 453.43)

Sec. 13. Examination and correction of return. As soon as practicable after any return is filed, the Department shall examine such return and shall correct such return according to its best judgment and information, which return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. Proof of such correction by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. If the tax as fixed by the Department is greater than the amount of the tax due under the return as filed, the Department shall issue the person filing such return a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If, in

administering the provisions of this Act, comparison of a return or returns of a distributor with the books, records and inventories of such distributor discloses a deficiency which cannot be allocated by the Department to a particular month or months, the Department shall issue the distributor a notice of tax liability for the amount of tax claimed by the Department to be due for a given period, but without any obligation upon the Department to allocate such deficiency to any particular month or months, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, under which circumstances the aforesaid notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein; and proof of such correctness may be made in accordance with, and the admissibility of a reproduced copy of such notice of tax liability shall be governed by, all the provisions of this Act applicable to corrected returns.

If any person filing any return dies or becomes a person under legal disability at any time before the Department issues its notice of tax liability, such notice shall be issued to the administrator, executor or other legal representative, as such, of such person.

Except as otherwise provided in this Section, if within 60 days after such notice of tax liability, the person to whom such notice is issued or his legal representative files a

protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such person or legal representative of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such person or legal representative for the amount found to be due as a result of such hearing. Effective July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the person filing the protest may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. If a protest to the notice of tax liability and a request for a hearing thereon is not filed within the time allowed by law, such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

Notwithstanding any other provisions of this Act, any

amount paid as tax or in respect of tax paid under this Act shall be deemed assessed upon the date of receipt of payment.

(Source: P.A. 97-1129, eff. 8-28-12.)

Section 100-25. The Liquor Control Act of 1934 is amended by changing Section 8-5 as follows:

(235 ILCS 5/8-5) (from Ch. 43, par. 163a)

Sec. 8-5. As soon as practicable after any return is filed, the Department shall examine such return or amended return and shall correct such return according to its best judgment and information, which return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. Instead of requiring the licensee to file an amended return, the Department may simply notify the licensee of the correction or corrections it has made. Proof of such correction by the Department, or of the determination of the amount of tax due as provided in Sections 8-4 and 8-10, may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as

shown therein. If the return so corrected by the Department discloses the sale or use, by a licensed manufacturer or importing distributor, of alcoholic liquors as to which the tax provided for in this Article should have been paid, but has not been paid, in excess of the alcoholic liquors reported as being taxable by the licensee, and as to which the proper tax was paid the Department shall notify the licensee that it shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with penalties at the rates prescribed by Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, which amount of tax shall be equivalent to the amount of tax which, at the prescribed rate per gallon, should have been paid with respect to the alcoholic liquors disposed of in excess of those reported as being taxable. No earlier than 90 days after the due date of the return, the Department may compare filed returns, or any amendments thereto, against reports of sales of alcoholic liquor submitted to the Department by other manufacturers and distributors. If a return or amended return is corrected by the Department because the return or amended return failed to disclose the purchase of alcoholic liquor from manufacturers or distributors on which the tax provided for in this Article should have been paid, but has not been paid, the Department shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with penalties at the rates prescribed by

Sections 3-3, 3-5, and 3-6 of the Uniform Penalty and Interest Act. In a case where no return has been filed, the Department shall determine the amount of tax due according to its best judgment and information and shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due as herein provided together with penalties at the rates prescribed by Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If, in administering the provisions of this Act, a comparison of a licensee's return or returns with the books, records and physical inventories of such licensee discloses a deficiency which cannot be allocated by the Department to a particular month or months, the Department shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due for a given period, but without any obligation upon the Department to allocate such deficiency to any particular month or months, together with penalties at the rates prescribed by Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, which amount of tax shall be equivalent to the amount of tax which, at the prescribed rate per gallon, should have been paid with respect to the alcoholic liquors disposed of in excess of those reported being taxable, with the tax thereon having been paid under which circumstances the aforesaid notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due as shown therein; and proof of such

correctness may be made in accordance with, and the admissibility of a reproduced copy of such notice of the Department's notice of tax liability shall be governed by, all the provisions of this Act applicable to corrected returns.

If the licensee dies or becomes a person under legal disability at any time before the Department issues its notice of tax liability, such notice shall be issued to the administrator, executor or other legal representative, as such, of the deceased or licensee who is under legal disability.

If such licensee or legal representative, within 60 days after such notice of tax liability, files a protest to such notice of tax liability and requests a hearing thereon, the Department shall give at least 7 days' notice to such licensee or legal representative, as the case may be, of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such licensee or legal representative for the amount found to be due as a result of such hearing.

If a protest to the notice of tax liability and a request for a hearing thereon is not filed within 60 days after such notice of tax liability, such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

Notwithstanding any other provisions of this Act, any



amount paid as tax or in respect of tax paid under this Act shall be deemed assessed upon the date of receipt of payment.

In case of failure to pay the tax, or any portion thereof, or any penalty provided for herein, when due, the Department may recover the amount of such tax, or portion thereof, or penalty in a civil action; or if the licensee dies or becomes a person under legal disability, by filing a claim therefor against his or her estate; provided that no such claim shall be filed against the estate of any deceased or of the licensee who is under legal disability for any tax or penalty or portion thereof except in the manner prescribed and within the time limited by the Probate Act of 1975, as amended.

The collection of any such tax and penalty, or either, by any means provided for herein, shall not be a bar to any prosecution under this Act.

In addition to any other penalty provided for in this Article, all provisions of the Uniform Penalty and Interest Act that are not inconsistent with this Act apply.

(Source: P.A. 100-1050, eff. 7-1-19; 101-16, eff. 6-14-19.)

#### ARTICLE 110. PARTNERSHIPS

Section 5. The Illinois Income Tax Act is amended by changing Section 201 as follows:

(35 ILCS 5/201)

Sec. 201. Tax imposed.

(a) In general. A tax measured by net income is hereby imposed on every individual, corporation, trust and estate for each taxable year ending after July 31, 1969 on the privilege of earning or receiving income in or as a resident of this State. Such tax shall be in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(b) Rates. The tax imposed by subsection (a) of this Section shall be determined as follows, except as adjusted by subsection (d-1):

(1) In the case of an individual, trust or estate, for taxable years ending prior to July 1, 1989, an amount equal to 2 1/2% of the taxpayer's net income for the taxable year.

(2) In the case of an individual, trust or estate, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 2 1/2% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 3% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(3) In the case of an individual, trust or estate, for taxable years beginning after June 30, 1989, and ending prior to January 1, 2011, an amount equal to 3% of the taxpayer's net income for the taxable year.

(4) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 3% of the taxpayer's net income for the period prior to January 1, 2011, as calculated under Section 202.5, and (ii) 5% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

(5) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 5% of the taxpayer's net income for the taxable year.

(5.1) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2015, and ending after December 31, 2014, an amount equal to the sum of (i) 5% of the taxpayer's net income for the period prior to January 1, 2015, as calculated under Section 202.5, and (ii) 3.75% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.

(5.2) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2015, and ending prior to July 1, 2017, an amount equal to 3.75% of the taxpayer's net income for the taxable year.

(5.3) In the case of an individual, trust, or estate, for taxable years beginning prior to July 1, 2017, and ending after June 30, 2017, an amount equal to the sum of

(i) 3.75% of the taxpayer's net income for the period prior to July 1, 2017, as calculated under Section 202.5, and (ii) 4.95% of the taxpayer's net income for the period after June 30, 2017, as calculated under Section 202.5.

(5.4) In the case of an individual, trust, or estate, for taxable years beginning on or after July 1, 2017, an amount equal to 4.95% of the taxpayer's net income for the taxable year.

(6) In the case of a corporation, for taxable years ending prior to July 1, 1989, an amount equal to 4% of the taxpayer's net income for the taxable year.

(7) In the case of a corporation, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 4% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 4.8% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(8) In the case of a corporation, for taxable years beginning after June 30, 1989, and ending prior to January 1, 2011, an amount equal to 4.8% of the taxpayer's net income for the taxable year.

(9) In the case of a corporation, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 4.8% of the taxpayer's net income for the period prior to

January 1, 2011, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

(10) In the case of a corporation, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 7% of the taxpayer's net income for the taxable year.

(11) In the case of a corporation, for taxable years beginning prior to January 1, 2015, and ending after December 31, 2014, an amount equal to the sum of (i) 7% of the taxpayer's net income for the period prior to January 1, 2015, as calculated under Section 202.5, and (ii) 5.25% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.

(12) In the case of a corporation, for taxable years beginning on or after January 1, 2015, and ending prior to July 1, 2017, an amount equal to 5.25% of the taxpayer's net income for the taxable year.

(13) In the case of a corporation, for taxable years beginning prior to July 1, 2017, and ending after June 30, 2017, an amount equal to the sum of (i) 5.25% of the taxpayer's net income for the period prior to July 1, 2017, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after June 30, 2017, as calculated under Section 202.5.

(14) In the case of a corporation, for taxable years

beginning on or after July 1, 2017, an amount equal to 7% of the taxpayer's net income for the taxable year.

The rates under this subsection (b) are subject to the provisions of Section 201.5.

(b-5) Surcharge; sale or exchange of assets, properties, and intangibles of organization gaming licensees. For each of taxable years 2019 through 2027, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles (i) of an organization licensee under the Illinois Horse Racing Act of 1975 and (ii) of an organization gaming licensee under the Illinois Gambling Act. The amount of the surcharge is equal to the amount of federal income tax liability for the taxable year attributable to those sales and exchanges. The surcharge imposed shall not apply if:

(1) the organization gaming license, organization license, or racetrack property is transferred as a result of any of the following:

(A) bankruptcy, a receivership, or a debt adjustment initiated by or against the initial licensee or the substantial owners of the initial licensee;

(B) cancellation, revocation, or termination of any such license by the Illinois Gaming Board or the Illinois Racing Board;

(C) a determination by the Illinois Gaming Board that transfer of the license is in the best interests of Illinois gaming;

(D) the death of an owner of the equity interest in a licensee;

(E) the acquisition of a controlling interest in the stock or substantially all of the assets of a publicly traded company;

(F) a transfer by a parent company to a wholly owned subsidiary; or

(G) the transfer or sale to or by one person to another person where both persons were initial owners of the license when the license was issued; or

(2) the controlling interest in the organization gaming license, organization license, or racetrack property is transferred in a transaction to lineal descendants in which no gain or loss is recognized or as a result of a transaction in accordance with Section 351 of the Internal Revenue Code in which no gain or loss is recognized; or

(3) live horse racing was not conducted in 2010 at a racetrack located within 3 miles of the Mississippi River under a license issued pursuant to the Illinois Horse Racing Act of 1975.

The transfer of an organization gaming license, organization license, or racetrack property by a person other

than the initial licensee to receive the organization gaming license is not subject to a surcharge. The Department shall adopt rules necessary to implement and administer this subsection.

(c) Personal Property Tax Replacement Income Tax. Beginning on July 1, 1979 and thereafter, in addition to such income tax, there is also hereby imposed the Personal Property Tax Replacement Income Tax measured by net income on every corporation (including Subchapter S corporations), partnership and trust, for each taxable year ending after June 30, 1979. Such taxes are imposed on the privilege of earning or receiving income in or as a resident of this State. The Personal Property Tax Replacement Income Tax shall be in addition to the income tax imposed by subsections (a) and (b) of this Section and in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(d) Additional Personal Property Tax Replacement Income Tax Rates. The personal property tax replacement income tax imposed by this subsection and subsection (c) of this Section in the case of a corporation, other than a Subchapter S corporation and except as adjusted by subsection (d-1), shall be an additional amount equal to 2.85% of such taxpayer's net income for the taxable year, except that beginning on January 1, 1981, and thereafter, the rate of 2.85% specified in this subsection shall be reduced to 2.5%, and in the case of a



partnership, trust or a Subchapter S corporation shall be an additional amount equal to 1.5% of such taxpayer's net income for the taxable year.

(d-1) Rate reduction for certain foreign insurers. In the case of a foreign insurer, as defined by Section 35A-5 of the Illinois Insurance Code, whose state or country of domicile imposes on insurers domiciled in Illinois a retaliatory tax (excluding any insurer whose premiums from reinsurance assumed are 50% or more of its total insurance premiums as determined under paragraph (2) of subsection (b) of Section 304, except that for purposes of this determination premiums from reinsurance do not include premiums from inter-affiliate reinsurance arrangements), beginning with taxable years ending on or after December 31, 1999, the sum of the rates of tax imposed by subsections (b) and (d) shall be reduced (but not increased) to the rate at which the total amount of tax imposed under this Act, net of all credits allowed under this Act, shall equal (i) the total amount of tax that would be imposed on the foreign insurer's net income allocable to Illinois for the taxable year by such foreign insurer's state or country of domicile if that net income were subject to all income taxes and taxes measured by net income imposed by such foreign insurer's state or country of domicile, net of all credits allowed or (ii) a rate of zero if no such tax is imposed on such income by the foreign insurer's state of domicile. For the purposes of this subsection (d-1), an inter-affiliate

includes a mutual insurer under common management.

(1) For the purposes of subsection (d-1), in no event shall the sum of the rates of tax imposed by subsections (b) and (d) be reduced below the rate at which the sum of:

(A) the total amount of tax imposed on such foreign insurer under this Act for a taxable year, net of all credits allowed under this Act, plus

(B) the privilege tax imposed by Section 409 of the Illinois Insurance Code, the fire insurance company tax imposed by Section 12 of the Fire Investigation Act, and the fire department taxes imposed under Section 11-10-1 of the Illinois Municipal Code,

equals 1.25% for taxable years ending prior to December 31, 2003, or 1.75% for taxable years ending on or after December 31, 2003, of the net taxable premiums written for the taxable year, as described by subsection (1) of Section 409 of the Illinois Insurance Code. This paragraph will in no event increase the rates imposed under subsections (b) and (d).

(2) Any reduction in the rates of tax imposed by this subsection shall be applied first against the rates imposed by subsection (b) and only after the tax imposed by subsection (a) net of all credits allowed under this Section other than the credit allowed under subsection (i) has been reduced to zero, against the rates imposed by

subsection (d).

This subsection (d-1) is exempt from the provisions of Section 250.

(e) Investment credit. A taxpayer shall be allowed a credit against the Personal Property Tax Replacement Income Tax for investment in qualified property.

(1) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984. There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. The provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit

shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%. The investment credit shall not be allowed to the extent that it would reduce a taxpayer's liability in any tax year below zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer (i) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois, (ii) is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act and (iii) is certified by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) as complying with the requirements specified in clause (i) and (ii) by July 1, 1986. The Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) shall notify the Department of Revenue of all

such certifications immediately. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(2) The term "qualified property" means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings and signs that are real property, but not including land or improvements to real property that are not a structural component of a building such as landscaping, sewer lines, local access roads, fencing, parking lots, and other appurtenances;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (e);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing, or was placed in service on or after July 1, 2006 in a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act; and

(E) has not previously been used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (e) or subsection (f).

(3) For purposes of this subsection (e), "manufacturing" means the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new shapes, new qualities, or new combinations. For purposes of this subsection (e) the term "mining" shall have the same meaning as the term "mining" in Section 613(c) of the Internal Revenue Code. For purposes of this subsection (e), the term "retailing" means the sale of tangible personal property for use or consumption and not for resale, or services rendered in conjunction with the sale of tangible personal property for use or consumption and not for resale. For purposes of this subsection (e),

"tangible personal property" has the same meaning as when that term is used in the Retailers' Occupation Tax Act, and, for taxable years ending after December 31, 2008, does not include the generation, transmission, or distribution of electricity.

(4) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(5) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(6) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(7) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the Personal Property Tax Replacement Income Tax for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation and, (ii) subtracting such

recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (7), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(8) Unless the investment credit is extended by law, the basis of qualified property shall not include costs incurred after December 31, 2018, except for costs incurred pursuant to a binding contract entered into on or before December 31, 2018.

(9) Each taxable year ending before December 31, 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled under this subsection (e) for the taxable year. A partner may use the credit allocated to him or her under this paragraph only against the tax imposed in subsections (c) and (d) of this Section. If the partnership makes that election, those credits shall be allocated among the partners in the partnership in accordance with the rules set forth in Section 704(b) of the Internal Revenue Code, and the rules promulgated under that Section, and the allocated amount of the credits shall be allowed to the partners for that taxable year. The partnership shall make this election on its Personal Property Tax Replacement Income Tax return for that taxable year. The election to



pass through the credits shall be irrevocable.

For taxable years ending on or after December 31, 2000, a partner that qualifies its partnership for a subtraction under subparagraph (I) of paragraph (2) of subsection (d) of Section 203 or a shareholder that qualifies a Subchapter S corporation for a subtraction under subparagraph (S) of paragraph (2) of subsection (b) of Section 203 shall be allowed a credit under this subsection (e) equal to its share of the credit earned under this subsection (e) during the taxable year by the partnership or Subchapter S corporation, determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. This paragraph is exempt from the provisions of Section 250.

(f) Investment credit; Enterprise Zone; River Edge Redevelopment Zone.

(1) A taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service in an Enterprise Zone created pursuant to the Illinois Enterprise Zone Act or, for property placed in service on or after July 1, 2006, a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act. For partners, shareholders of Subchapter S corporations, and owners of limited liability

companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (f) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The credit shall be .5% of the basis for such property. The credit shall be available only in the taxable year in which the property is placed in service in the Enterprise Zone or River Edge Redevelopment Zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1985, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (f);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer; and

(E) has not been previously used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (f) or subsection (e).

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the Enterprise Zone or River Edge Redevelopment Zone within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) There shall be allowed an additional credit equal to 0.5% of the basis of qualified property placed in service during the taxable year in a River Edge Redevelopment Zone, provided such property is placed in service on or after July 1, 2006, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of

Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is 0.5% and the denominator of which is 1%, but shall not exceed 0.5%.

(8) For taxable years beginning on or after January 1, 2021, there shall be allowed an Enterprise Zone construction jobs credit against the taxes imposed under subsections (a) and (b) of this Section as provided in Section 13 of the Illinois Enterprise Zone Act.

The credit or credits may not reduce the taxpayer's liability to less than zero. If the amount of the credit or credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the same manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for the purposes of federal and State income taxation, there shall be allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not exceed \$20,000,000 in any State fiscal year.

This paragraph (8) is exempt from the provisions of Section 250.

(g) (Blank).

(h) Investment credit; High Impact Business.

(1) Subject to subsections (b) and (b-5) of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a Department of Commerce and Economic Opportunity designated High Impact Business. The credit shall be .5% of the basis for such property. The credit shall not be available (i) until the minimum investments in qualified property set forth in subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act have been satisfied or (ii) until the

time authorized in subsection (b-5) of the Illinois Enterprise Zone Act for entities designated as High Impact Businesses under subdivisions (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone Act, and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. The credit applicable to such investments shall be taken in the taxable year in which such investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business authorized under subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act shall be available only in the taxable year in which the property is placed in service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit

from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

Changes made in this subdivision (h) (1) by Public Act 88-670 restore changes made by Public Act 85-1182 and reflect existing law.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c) (2) (A) of that Code is not eligible for the credit provided by this subsection (h);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code; and

(D) is not eligible for the Enterprise Zone Investment Credit provided by subsection (f) of this Section.

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois by the taxpayer, the



amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year ending on or before December 31, 1996, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) Beginning with tax years ending after December 31, 1996, if a taxpayer qualifies for the credit under this subsection (h) and thereby is granted a tax abatement and the taxpayer relocates its entire facility in violation of

the explicit terms and length of the contract under Section 18-183 of the Property Tax Code, the tax imposed under subsections (a) and (b) of this Section shall be increased for the taxable year in which the taxpayer relocated its facility by an amount equal to the amount of credit received by the taxpayer under this subsection (h).

(h-5) High Impact Business construction jobs credit. For taxable years beginning on or after January 1, 2021, there shall also be allowed a High Impact Business construction jobs credit against the tax imposed under subsections (a) and (b) of this Section as provided in subsections (i) and (j) of Section 5.5 of the Illinois Enterprise Zone Act.

The credit or credits may not reduce the taxpayer's liability to less than zero. If the amount of the credit or credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for the purposes of federal and State income taxation, there shall be allowed a

credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not exceed \$20,000,000 in any State fiscal year.

This subsection (h-5) is exempt from the provisions of Section 250.

(i) Credit for Personal Property Tax Replacement Income Tax. For tax years ending prior to December 31, 2003, a credit shall be allowed against the tax imposed by subsections (a) and (b) of this Section for the tax imposed by subsections (c) and (d) of this Section. This credit shall be computed by multiplying the tax imposed by subsections (c) and (d) of this Section by a fraction, the numerator of which is base income allocable to Illinois and the denominator of which is Illinois base income, and further multiplying the product by the tax rate imposed by subsections (a) and (b) of this Section.

Any credit earned on or after December 31, 1986 under this subsection which is unused in the year the credit is computed because it exceeds the tax liability imposed by subsections (a) and (b) for that year (whether it exceeds the original liability or the liability as later amended) may be carried forward and applied to the tax liability imposed by subsections (a) and (b) of the 5 taxable years following the

excess credit year, provided that no credit may be carried forward to any year ending on or after December 31, 2003. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first.

If, during any taxable year ending on or after December 31, 1986, the tax imposed by subsections (c) and (d) of this Section for which a taxpayer has claimed a credit under this subsection (i) is reduced, the amount of credit for such tax shall also be reduced. Such reduction shall be determined by recomputing the credit to take into account the reduced tax imposed by subsections (c) and (d). If any portion of the reduced amount of credit has been carried to a different taxable year, an amended return shall be filed for such taxable year to reduce the amount of credit claimed.

(j) Training expense credit. Beginning with tax years ending on or after December 31, 1986 and prior to December 31, 2003, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) under this Section for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross

income in the computation of taxable income. The credit against the tax imposed by subsections (a) and (b) shall be 1.6% of such training expenses. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (j) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. No carryforward credit may be claimed in any tax year ending on or after December 31, 2003.

(k) Research and development credit. For tax years ending after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, and ending prior to January 1, 2027, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for increasing research activities in

this State. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

For purposes of this subsection, "qualifying expenditures" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under Section 41 of the Internal Revenue Code and which are conducted in this State, "qualifying expenditures for increasing research activities in this State" means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period, "qualifying expenditures for the base period" means the average of the qualifying expenditures for each year in the base period, and "base period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

Any credit in excess of the tax liability for the taxable year may be carried forward. A taxpayer may elect to have the

unused credit shown on its final completed return carried over as a credit against the tax liability for the following 5 taxable years or until it has been fully used, whichever occurs first; provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003.

If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year will be applied first against the tax liability for the given year. If a tax liability for the given year still remains, the credit from the next earliest year will then be applied, and so on, until all credits have been used or no tax liability for the given year remains. Any remaining unused credit or credits then will be carried forward to the next following year in which a tax liability is incurred, except that no credit can be carried forward to a year which is more than 5 years after the year in which the expense for which the credit is given was incurred.

No inference shall be drawn from Public Act 91-644 in construing this Section for taxable years beginning before January 1, 1999.

It is the intent of the General Assembly that the research and development credit under this subsection (k) shall apply continuously for all tax years ending on or after December 31, 2004 and ending prior to January 1, 2027, including, but not limited to, the period beginning on January 1, 2016 and ending

on July 6, 2017 (the effective date of Public Act 100-22). All actions taken in reliance on the continuation of the credit under this subsection (k) by any taxpayer are hereby validated.

(1) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and on or before December 31, 2001, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. After the Pollution



Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability for purposes of this Section shall be made consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site, except that the \$100,000 threshold shall not apply to any site contained in an enterprise zone as determined by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity). The total credit allowed shall not exceed \$40,000 per year with a maximum total of \$150,000 per site. For partners and shareholders of subchapter S corporations, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of unreimbursed eligible remediation costs in excess of the maximum credit per site authorized under paragraph (i). This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(m) Education expense credit. Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed (i) \$500 for tax years ending prior to December 31, 2017, and (ii) \$750 for tax years ending on or after December 31, 2017. In no event shall a credit under this subsection reduce the taxpayer's liability under this Act to less than zero. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, no taxpayer may claim a credit under this subsection (m) if the taxpayer's adjusted gross income for the taxable year exceeds (i) \$500,000, in the case of spouses filing a joint federal tax return or (ii) \$250,000, in the case of all other taxpayers. This subsection is exempt from the provisions of Section 250 of this Act.

For purposes of this subsection:

"Qualifying pupils" means individuals who (i) are residents of the State of Illinois, (ii) are under the age of

21 at the close of the school year for which a credit is sought, and (iii) during the school year for which a credit is sought were full-time pupils enrolled in a kindergarten through twelfth grade education program at any school, as defined in this subsection.

"Qualified education expense" means the amount incurred on behalf of a qualifying pupil in excess of \$250 for tuition, book fees, and lab fees at the school in which the pupil is enrolled during the regular school year.

"School" means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code, except that nothing shall be construed to require a child to attend any particular public or nonpublic school to qualify for the credit under this Section.

"Custodian" means, with respect to qualifying pupils, an Illinois resident who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils.

(n) River Edge Redevelopment Zone site remediation tax credit.

(i) For tax years ending on or after December 31, 2006, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of

this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14a of the Environmental Protection Act that were paid in performing environmental remediation at a site within a River Edge Redevelopment Zone for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. Determinations as to credit availability for purposes of this Section shall be made consistent with rules adopted by the Pollution Control Board pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267

of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be

eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(o) For each of taxable years during the Compassionate Use of Medical Cannabis Program, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles of an organization registrant under the Compassionate Use of Medical Cannabis Program Act. The amount of the surcharge is equal to the amount of federal income tax liability for the taxable year attributable to those sales and exchanges. The surcharge imposed does not apply if:

(1) the medical cannabis cultivation center registration, medical cannabis dispensary registration, or the property of a registration is transferred as a result of any of the following:

(A) bankruptcy, a receivership, or a debt adjustment initiated by or against the initial registration or the substantial owners of the initial registration;

(B) cancellation, revocation, or termination of any registration by the Illinois Department of Public Health;

(C) a determination by the Illinois Department of

Public Health that transfer of the registration is in the best interests of Illinois qualifying patients as defined by the Compassionate Use of Medical Cannabis Program Act;

(D) the death of an owner of the equity interest in a registrant;

(E) the acquisition of a controlling interest in the stock or substantially all of the assets of a publicly traded company;

(F) a transfer by a parent company to a wholly owned subsidiary; or

(G) the transfer or sale to or by one person to another person where both persons were initial owners of the registration when the registration was issued; or

(2) the cannabis cultivation center registration, medical cannabis dispensary registration, or the controlling interest in a registrant's property is transferred in a transaction to lineal descendants in which no gain or loss is recognized or as a result of a transaction in accordance with Section 351 of the Internal Revenue Code in which no gain or loss is recognized.

(p) Pass-through entity tax.

(1) For taxable years ending on or after December 31, 2021 and beginning prior to January 1, 2026, a partnership (other than a publicly traded partnership under Section



7704 of the Internal Revenue Code) or Subchapter S corporation may elect to apply the provisions of this subsection. A separate election shall be made for each taxable year. Such election shall be made at such time, and in such form and manner as prescribed by the Department, and, once made, is irrevocable.

(2) Entity-level tax. A partnership or Subchapter S corporation electing to apply the provisions of this subsection shall be subject to a tax for the privilege of earning or receiving income in this State in an amount equal to 4.95% of the taxpayer's net income for the taxable year.

(3) Net income defined.

(A) In general. For purposes of paragraph (2), the term net income has the same meaning as defined in Section 202 of this Act, except that, for tax years ending on or after December 31, 2023, a deduction shall be allowed in computing base income for distributions to a retired partner to the extent that the partner's distributions are exempt from tax under Section 203(a)(2)(F) of this Act. In addition, the following ~~modifications~~ ~~provisions~~ shall not apply:

(i) the standard exemption allowed under Section 204;

(ii) the deduction for net losses allowed under Section 207;

(iii) in the case of an S corporation, the modification under Section 203(b)(2)(S); and

(iv) in the case of a partnership, the modifications under Section 203(d)(2)(H) and Section 203(d)(2)(I).

(B) Special rule for tiered partnerships. If a taxpayer making the election under paragraph (1) is a partner of another taxpayer making the election under paragraph (1), net income shall be computed as provided in subparagraph (A), except that the taxpayer shall subtract its distributive share of the net income of the electing partnership (including its distributive share of the net income of the electing partnership derived as a distributive share from electing partnerships in which it is a partner).

(4) Credit for entity level tax. Each partner or shareholder of a taxpayer making the election under this Section shall be allowed a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act for the taxable year of the partnership or Subchapter S corporation for which an election is in effect ending within or with the taxable year of the partner or shareholder in an amount equal to 4.95% times the partner or shareholder's distributive share of the net income of the electing partnership or Subchapter S corporation, but not to exceed the partner's or shareholder's share of the

tax imposed under paragraph (1) which is actually paid by the partnership or Subchapter S corporation. If the taxpayer is a partnership or Subchapter S corporation that is itself a partner of a partnership making the election under paragraph (1), the credit under this paragraph shall be allowed to the taxpayer's partners or shareholders (or if the partner is a partnership or Subchapter S corporation then its partners or shareholders) in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. If the amount of the credit allowed under this paragraph exceeds the partner's or shareholder's liability for tax imposed under subsections (a) and (b) of Section 201 of this Act for the taxable year, such excess shall be treated as an overpayment for purposes of Section 909 of this Act.

(5) Nonresidents. A nonresident individual who is a partner or shareholder of a partnership or Subchapter S corporation for a taxable year for which an election is in effect under paragraph (1) shall not be required to file an income tax return under this Act for such taxable year if the only source of net income of the individual (or the individual and the individual's spouse in the case of a joint return) is from an entity making the election under paragraph (1) and the credit allowed to the partner or shareholder under paragraph (4) equals or exceeds the

individual's liability for the tax imposed under subsections (a) and (b) of Section 201 of this Act for the taxable year.

(6) Liability for tax. Except as provided in this paragraph, a partnership or Subchapter S making the election under paragraph (1) is liable for the entity-level tax imposed under paragraph (2). If the electing partnership or corporation fails to pay the full amount of tax deemed assessed under paragraph (2), the partners or shareholders shall be liable to pay the tax assessed (including penalties and interest). Each partner or shareholder shall be liable for the unpaid assessment based on the ratio of the partner's or shareholder's share of the net income of the partnership over the total net income of the partnership. If the partnership or Subchapter S corporation fails to pay the tax assessed (including penalties and interest) and thereafter an amount of such tax is paid by the partners or shareholders, such amount shall not be collected from the partnership or corporation.

(7) Foreign tax. For purposes of the credit allowed under Section 601(b)(3) of this Act, tax paid by a partnership or Subchapter S corporation to another state which, as determined by the Department, is substantially similar to the tax imposed under this subsection, shall be considered tax paid by the partner or shareholder to the

extent that the partner's or shareholder's share of the income of the partnership or Subchapter S corporation allocated and apportioned to such other state bears to the total income of the partnership or Subchapter S corporation allocated or apportioned to such other state.

(8) Suspension of withholding. The provisions of Section 709.5 of this Act shall not apply to a partnership or Subchapter S corporation for the taxable year for which an election under paragraph (1) is in effect.

(9) Requirement to pay estimated tax. For each taxable year for which an election under paragraph (1) is in effect, a partnership or Subchapter S corporation is required to pay estimated tax for such taxable year under Sections 803 and 804 of this Act if the amount payable as estimated tax can reasonably be expected to exceed \$500.

(10) The provisions of this subsection shall apply only with respect to taxable years for which the limitation on individual deductions applies under Section 164(b)(6) of the Internal Revenue Code.

(Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff. 8-20-21; 102-658, eff. 8-27-21.)

#### ARTICLE 995. NON-ACCELERATION

Section 995-95. No acceleration or delay. Where this Act

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makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

#### ARTICLE 999. EFFECTIVE DATE

Section 999-99. Effective date. This Act takes effect upon becoming law, except that Article 20 takes effect on July 1, 2023 and Articles 55 and 100 take effect on January 1, 2024.