

TITLE 86: REVENUE
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335 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and

336 authorized by Sections 2505-25 and 2505-795 of the Department of Revenue Law [20 ILCS

337 2505].

338

339 SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978;

340 amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and

341 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended

342 at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective

343 October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4

344 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818,

345 effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5
 346 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3,
 347 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229;
 348 recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982;
 349 amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April
 350 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg.
 351 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended
 352 at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective
 353 November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill.
 354 Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987;
 355 amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138,
 356 effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;
 357 amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg.
 358 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an
 359 objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective
 360 November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency
 361 expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14
 362 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1,
 363 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg.
 364 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991;
 365 amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757,
 366 effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended
 367 at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October
 368 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg.
 369 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994;
 370 amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568,
 371 effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995;
 372 amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective
 373 March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg.
 374 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996;
 375 expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg.
 376 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997;
 377 amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874,
 378 effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at
 379 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29,
 380 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713,
 381 effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a
 382 maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24
 383 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8,
 384 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of
 385 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950,
 386 effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25
 387 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May

388 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264,
 389 effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at
 390 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15,
 391 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196,
 392 effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at
 393 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24,
 394 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795,
 395 effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,
 396 for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg.
 397 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective
 398 November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at
 399 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21,
 400 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum
 401 of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26,
 402 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621,
 403 effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at
 404 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March
 405 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of
 406 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June
 407 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg.
 408 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008;
 409 amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective
 410 January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill.
 411 Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20,
 412 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935,
 413 effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at
 414 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9,
 415 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421,
 416 effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38
 417 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12,
 418 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616,
 419 effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40
 420 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1,
 421 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201,
 422 effective March 20, 2019; amended at 43 Ill. Reg. 5069, effective April 17, 2019; amended at 43
 423 Ill. Reg. 8865, effective July 30, 2019; emergency amendment at 43 Ill. Reg. 9841, effective
 424 August 21, 2019, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 552,
 425 effective December 27, 2019, for a maximum of 150 days; emergency expired May 24, 2020;
 426 emergency amendment at 44 Ill. Reg. 2055, effective January 13, 2020, for a maximum of 180
 427 days; amended at 44 Ill. Reg. 5392, effective March 16, 2020; amended at 44 Ill. Reg. 10981,
 428 effective June 10, 2020; amended at 44 Ill. Reg. 13975, effective August 11, 2020; amended at
 429 45 Ill. Reg. 352, effective December 21, 2020; amended at 45 Ill. Reg. 7248, effective June 3,
 430 2021; amended at 45 Ill. Reg. 14464, effective November 2, 2021; amended at 45 Ill. Reg.

431 16058, effective December 3, 2021; amended at 46 Ill. Reg. 6745, effective April 12, 2022;
432 amended at 46 Ill. Reg. 7785, effective April 26, 2022; amended at 46 Ill. Reg. 10905, effective
433 June 7, 2022; amended at 46 Ill. Reg. 15336, effective August 23, 2022; amended at 46 Ill. Reg.
434 18120, effective October 25, 2022; amended at 46 Ill. Reg. 18827, effective November 1, 2022;
435 amended at 47 Ill. Reg. 1426, effective January 17, 2023; amended at 47 Ill. Reg. 2116, effective
436 January 24, 2023; amended at 47 Ill. Reg. 5751, effective April 4, 2023; amended at 47 Ill. Reg.
437 6068, effective April 12, 2023; amended at 47 Ill. Reg. 6309, effective April 18, 2023; amended
438 at 47 Ill. Reg. 19135, effective December 6, 2023; amended at 47 Ill. Reg. 19349, effective
439 December 12, 2023; amended at 48 Ill. Reg. 1870, effective January 18, 2024; amended at 48 Ill.
440 Reg. 2856, effective February 8, 2024; amended at 48 Ill. Reg. 10646, effective July 2, 2024;
441 amended at 48 Ill. Reg. 14779, effective September 25, 2024; amended at 48 Ill. Reg. 16529,
442 effective November 4, 2024; amended at 49 Ill. Reg. 2107, effective February 5, 2025; amended
443 at 49 Ill. Reg. 3180, effective February 26, 2025; amended at 49 Ill. Reg. 5419, effective April 1,
444 2025; amended at 49 Ill. Reg. 8586, effective June 13, 2025; amended at 49 Ill. Reg. 10765,
445 effective August 8, 2025; amended at 50 Ill. Reg. 1119, effective January 8, 2026; amended at 50
446 Ill. Reg. _____, effective _____.

447
448 SUBPART C: CERTAIN STATUTORY EXEMPTIONS

449
450 **Section 130.340 Rolling Stock**

- 451
452 a) Notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax
453 does not apply to sales of tangible personal property to *owners or lessors, lessees,*
454 *or shippers of tangible personal property that is utilized by interstate carriers for*
455 *hire for use as rolling stock moving in interstate commerce* as long as the tangible
456 personal property is used by the interstate carriers for hire. [35 ILCS 120/2-5(13)]
457 This exemption is not only available to purchasers who are interstate carriers for
458 hire and who otherwise meet the requirements of the exemption, but also to
459 lessors who lease to interstate carriers who use the property as rolling stock
460 moving in interstate commerce and to shippers, including manufacturers, who
461 provide tangible personal property (such as shipping containers) to interstate
462 carriers for hire when those interstate carriers use that property as rolling stock
463 moving in interstate commerce. On and after January 1, 2025, this exemption is
464 also available to lessors (and their lessees) who are subject to the lease tax
465 imposed under the Act on persons engaged in the business of leasing at retail
466 tangible personal property (other than motor vehicles, watercraft, aircraft, and
467 semitrailers, as defined in Section 1-187 of the Illinois Vehicle Code, that are
468 required to be registered with an agency of this State). The rolling stock
469 exemption from the tax on leases does not have broad applicability, however,
470 since the lease tax is not imposed on registered property, with the exception of
471 trailers that are not semitrailers.

472

- 473 1) In making an initial determination of eligibility, two conditions that an
474 item must meet in each instance are:
475
476 A) it must transport persons or property for hire; and
477
478 B) it must transport persons or property in interstate commerce.
479
480 2) The purchase of an item that does not meet both criteria in subsection
481 (a)(1) is not eligible for the rolling stock exemption under any
482 circumstances.
483

484 b) Definitions. As used in this Section:

485
486 "Aircraft" has the meaning prescribed in Section 3 of the Illinois Aeronautics Act.
487 [620 ILCS 5/1]
488

489 "Commercial service or cargo service airport" means land, improvements to land,
490 equipment, and appliances necessary for the receipt and transfer of persons and
491 property onto or off of aircraft primarily for interstate or international transport.
492

493 "*Gross vehicle weight rating*" or "*GVWR*" means the value specified by the
494 manufacturer as the loaded weight of a single vehicle. [625 ILCS 5/1-124.5]
495

496 "*Limousine*" means any privately owned first division vehicle intended to be used
497 for the transportation of persons for-hire when the payment is not based on a
498 meter charge, but is prearranged for a designated destination. [625 ILCS 5/1-
499 139.1]
500

501 "Motor vehicle" means, except as otherwise provided in this Section, a motor
502 vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-
503 146]. The term "motor vehicle" does not include aircraft or watercraft.
504

505 The term "Rolling Stock" includes transportation vehicles of any kind used by an
506 interstate transportation company for hire (e.g., railroad, bus line, airline, trucking
507 company, barge company, and limousine company), but not vehicles that are
508 being used by a person to transport its officers, employees, customers or others
509 not for hire (even if they cross State lines) or to transport property that the person
510 owns or is selling and delivering to customers (even if the transportation crosses
511 State lines). Railroad "rolling stock" includes all railroad cars, passenger and
512 freight, and locomotives (including switching locomotives) or mobile power units
513 of every nature for moving the cars, operating on railroad tracks, and includes all
514 property purchased for the purpose of being attached to the cars or locomotives as
515 a part of the cars or locomotives. The exemption includes some equipment (such

516 as shipping containers called trailers and shipping containers transferred at
517 intermodal terminal facilities or commercial service or cargo service airports) that
518 is used by interstate carriers for hire, loaded on railroad cars or aircraft, to
519 transport property, but that does not operate under its own power and is not
520 actually attached to the railroad cars or aircraft. The exemption does not apply to
521 fuel nor to jacks or flares or other items that are used by interstate carriers for hire
522 in servicing the transportation vehicles, but that do not become a part of the
523 vehicles, and that do not participate directly in some way in the transportation
524 process. The exemption does not include property of an interstate carrier for hire
525 used in the company's office, such as furniture, computers, office supplies and the
526 like.

527
528 *"Trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code;*
529 *a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and a pole*
530 *trailer as defined in Section 1-161 of the Illinois Vehicle Code.*

531
532 "Watercraft" means:

533
534 Class 2, Class 3, and Class 4 watercraft, as defined in Section 3-2 of the
535 Boat Registration and Safety Act; [625 ILCS 45/3-2]; or

536
537 personal watercraft, as defined in Section 1-2 of the Boat Registration and
538 Safety Act. [625 ILCS 45/1-2]

539
540 c) Generally, the rolling stock exemption cannot be claimed by a purely intrastate
541 carrier for hire as to any tangible personal property that it purchases because it
542 does not meet the statutory tests of being an interstate carrier for hire. However,
543 *the rolling stock exemption applies to rolling stock used by an interstate carrier*
544 *for hire, even just between points in Illinois, if the rolling stock transports, for*
545 *hire, persons whose journeys or property whose shipments originate or terminate*
546 *outside Illinois.* [35 ILCS 120/2-50].

547
548 d) Motor vehicles (other than limousines) and trailers. This subsection (d) sets forth
549 the specific requirements to qualify for the rolling stock exemption for motor
550 vehicles and trailers. This subsection (d) does not apply to limousines. For
551 discussion of the application of the rolling stock exemption to limousines, see
552 subsection (e).

553
554 1) Rolling stock test for purchases on or after August 24, 2017. This
555 subsection (d)(1) applies to motor vehicles and trailers (and repair and
556 replacement parts) purchased on or after August 24, 2017 (the effective
557 date of Public Act 100-321).

558

- 559 A) Application of the rolling stock test. *For motor vehicles and*
560 *trailers purchased on or after August 24, 2017, "use as rolling*
561 *stock moving in interstate commerce" means that:*
562
563 i) *the motor vehicle or trailer is used to transport persons or*
564 *property for hire;*
565
566 ii) *the purchaser who is an owner or lessor, lessee, or shipper*
567 *claiming the exemption certifies that the motor vehicle or*
568 *trailer will be utilized, from the time of purchase and*
569 *continuing through the statute of limitations for issuing a*
570 *Notice of Tax Liability under the Retailers' Occupation Tax*
571 *Act, by an interstate carrier or carriers for hire who hold,*
572 *and are required by Federal Motor Carrier Safety*
573 *Administration (FMCSA) regulations to hold, an active*
574 *USDOT (United States Department of Transportation)*
575 *Number with the Carrier Operation listed as "Interstate"*
576 *and the Operation Classification listed as "authorized for*
577 *hire", "exempt for hire", or both "authorized for hire" and*
578 *"exempt for hire"; except that this subsection (d)(1)(A)(ii)*
579 *does not apply to a motor vehicle or trailer used at an*
580 *airport to support the operation of an aircraft moving in*
581 *interstate commerce, as long as (i) in the case of a motor*
582 *vehicle, the motor vehicle meets the requirements of*
583 *subsections (d)(1)(A)(i) and (d)(1)(A)(iii) or (ii) in the case*
584 *of a trailer, the trailer meets the requirements of subsection*
585 *(d)(1)(A)(i); and*
586
587 iii) *for motor vehicles, the motor vehicle's gross vehicle weight*
588 *rating exceeds 16,000 pounds. [35 ILCS 120/2-51(d-5)]*
589
590 B) Repair and replacement parts purchased on or after August 24,
591 2017 for motor vehicles and trailers. *"Use as rolling stock moving*
592 *in interstate commerce" in this subsection (d)(1) applies to all*
593 *property purchased on or after August 24, 2017 for the purpose of*
594 *being attached to a motor vehicle or trailer as a part thereof,*
595 *regardless of whether the motor vehicle or trailer was purchased*
596 *before, on, or after August 24, 2017 [35 ILCS 120/2-51(d-5)]. This*
597 *means that repair and replacement parts purchased on or after*
598 *August 24, 2017 for the purpose of being attached to a motor*
599 *vehicle or trailer as a part thereof qualify for the rolling stock*
600 *exemption if, at the time of purchase of the repair or replacement*
601 *parts, the motor vehicle or trailer to which the parts will be*

602 attached and the purchaser of the repair or replacement parts (or
603 the carrier if the purchaser is not the carrier) meet the requirements
604 of subsection (d)(1)(A), and the purchaser provides a certification
605 to that effect as required in subsection (d)(1)(E), regardless of
606 when the motor vehicle or trailer itself was purchased. For repair
607 and replacement parts for limousines, see subsection (e)(2).
608

609 C) *If a motor vehicle or trailer (or a repair or replacement part) ceases*
610 *to meet the requirements under subsection (d)(1)(A), then the tax*
611 *is imposed on the selling price, allowing for a reasonable*
612 *depreciation for the period during which the motor vehicle or*
613 *trailer qualified for the exemption. [35 ILCS 120/2-51(d-5)]*
614 Reasonable depreciation shall be determined in accordance with 86
615 Ill. Adm. Code 150.110.

616
617 D) *For purposes of this subsection (d)(1), "motor vehicle" excludes*
618 *limousines, but otherwise means that term as defined in Section 1-*
619 *146 of the Illinois Vehicle Code.*

620
621 E) Certification of exemption for motor vehicles and trailers
622 purchased on or after August 24, 2017. To properly claim the
623 rolling stock exemption, the purchaser must give the seller a
624 certification that the purchaser is purchasing the property for use as
625 rolling stock moving in interstate commerce.
626

627 i) If the purchaser is an interstate carrier for hire, the
628 purchaser must include in the certification its active
629 USDOT Number issued by the FMCSA. In addition, the
630 purchaser must certify that its FMCSA Company Operation
631 type is listed as "Interstate". Finally, the purchaser must
632 certify that its FMCSA Operation Classification is listed as
633 "Authorized For-Hire", "Exempt For-Hire", or both
634 "Authorized For-Hire" and "Exempt For-Hire".
635

636 ii) The USDOT Number, FMCSA Company Operation type,
637 and FMCSA Operation Classification requirement does not
638 apply to a motor vehicle or trailer used at an airport to
639 support the operation of an aircraft moving in interstate
640 commerce, as long as it otherwise meets the other
641 requirements of the exemption in subsection (d)(1)(A).
642

643 iii) If the purchaser is a lessor, the purchaser must give the
644 seller of the property a certification to that effect, similarly

- 645 certifying the lessee's interstate carrier for hire status (i.e.,
646 USDOT Number, FMCSA Company Operation type, and
647 FMCSA Operation Classification).
648
- 649 iv) If the purchaser is an owner or shipper of tangible personal
650 property that will be utilized by interstate carriers for hire
651 for use as rolling stock moving in interstate commerce, the
652 purchaser must give the seller of the property a certification
653 to that effect, similarly certifying the interstate carrier for
654 hire status (i.e., USDOT Number, FMCSA Company
655 Operation type, and FMCSA Operation Classification) of
656 the interstate carrier for hire that will utilize the property.
657
- 658 F) If a retailer accepts a certification under subsection (d)(1)(E), this
659 does not preclude the Department from disregarding it and
660 assessing Retailers' Occupation Tax against the retailer if the
661 Department determines that, at the time the retailer accepted the
662 certification, the purchaser, or the carrier identified by the
663 purchaser in cases where the purchaser is not the carrier, did not
664 meet the active USDOT Number, FMCSA Company Operation
665 type, and FMCSA Operation Classification requirements.
666
- 667 G) The giving of a certification under subsection (d)(1)(E) by a
668 purchaser does not preclude the Department from disregarding it
669 and assessing Use Tax against the purchaser if, in examining the
670 purchaser's records (or, in cases where the purchaser is not the
671 carrier, the carrier's records), the Department finds that the
672 certification was not true as to some fact that shows the purchase
673 was taxable and should not have been certified as being tax
674 exempt. The Department reserves the right to require the purchaser
675 to provide a copy of the purchaser's (or carrier's, in cases where the
676 purchaser is not the carrier) FMCSA documentation whenever the
677 Department deems it necessary.
678
- 679 H) For sales where an active USDOT Number is required, a retailer
680 can confirm whether the carrier meets the Company Operation
681 type and Operation Classification by searching the Federal Motor
682 Carrier Safety Administration's Safety and Fitness Electronic
683 Records (SAFER) System using the carrier's USDOT Number.
684 The information displayed will state whether the carrier's FMCSA
685 Company Operation type is "Interstate" and whether the carrier's
686 FMCSA Operation Classification is "Authorized For-Hire" or
687 "Exempt For-Hire". If the USDOT Number is not active or if one

688 or both of the requirements for FMCSA Company Operation type
689 or FMCSA Operation Classification is not met, the sale does not
690 qualify for the rolling stock exemption.
691

- 692 I) The following examples apply the rolling stock test for purchases
693 of motor vehicles on or after August 24, 2017.
694

695 EXAMPLE 1 – Exempt: An interstate trucking company decides
696 to purchase a new truck with a gross vehicle weight rating
697 exceeding 16,000 pounds for its business. The company has been
698 issued a USDOT Number by the FMCSA within the United States
699 Department of Transportation. The company's FMCSA Company
700 Operation type is listed in the SAFER System as "Interstate" and
701 its FMCSA Operation Classification is listed as "Authorized For-
702 Hire". The company completes a RUT-7 Certification Form
703 certifying that it meets the requirements for the exemption and the
704 retailer uses the SAFER System to confirm the certification. The
705 sale is exempt.
706

707 EXAMPLE 2 – Not Exempt: A company decides to become an
708 interstate trucking company and purchases a new truck with a
709 gross vehicle weight rating exceeding 16,000 pounds for its
710 business. It has applied for but not yet received a USDOT
711 Number. The purchase of the truck cannot meet the statutory
712 requirements for exemption because the company has not yet been
713 issued a USDOT Number and, therefore, does not have an active
714 USDOT Number at the time of purchase.
715

716 EXAMPLE 3 – Not Exempt: A company decides to purchase a
717 new truck with a gross vehicle weight rating exceeding 16,000
718 pounds for its business. The company has been issued a USDOT
719 Number by the FMCSA within the United States Department of
720 Transportation. The company's FMCSA Company Operation type
721 is listed in the SAFER System as "Interstate". Its FMCSA
722 Operation Classification is listed as "Private Property" (which
723 designates a company that transports only its own cargo). The
724 purchase of the truck cannot meet the statutory requirements for
725 exemption because the company's FMCSA Operation
726 Classification is neither "Authorized For-Hire" nor "Exempt For-
727 Hire."
728

- 729 2) Rolling stock test for purchases before August 24, 2017. This subsection
730 (d)(2) applies to motor vehicles and trailers (and repair and replacement

731 parts) purchased before August 24, 2017 (the effective date of Public Act
 732 100-321). For motor vehicles and trailers (and repair and replacement
 733 parts for these items) purchased on or after August 24, 2017, subsection
 734 (d)(1) applies.

735
 736 A) Application of the rolling stock test for motor vehicles purchased
 737 before August 24, 2017. A motor vehicle whose gross vehicle
 738 weight rating exceeds 16,000 pounds will qualify for the rolling
 739 stock exemption if, *during a 12-month period, it carries persons or*
 740 *property for hire in interstate commerce for greater than 50% of*
 741 *its total trips for that period or for greater than 50% of its total*
 742 *miles for that period.* The person claiming the rolling stock
 743 exemption for a motor vehicle must make an election at the time of
 744 purchase to use either the trips or mileage method to document that
 745 the motor vehicle will be used in a manner that qualifies for the
 746 exemption. [35 ILCS 120/2-51(c)]

747
 748 i) If the purchase is from an Illinois retailer, the election must
 749 be made on a certification described in subsection
 750 (d)(2)(F). If the purchase is from an out-of-state retailer or
 751 from a non-retailer, the election must be documented in the
 752 purchaser's books and records.

753
 754 ii) *If no election is made as required under the provisions of*
 755 *subsection (d)(2)(A)(i), the person will be deemed to have*
 756 *chosen the mileage method.* [35 ILCS 120/2-51(c)]

757
 758 iii) Once such an election for a motor vehicle has been made,
 759 or is deemed to have been made, the method used to
 760 document the qualification of that motor vehicle for the
 761 rolling stock exemption *will remain in effect for the*
 762 *duration of the purchaser's ownership of that motor*
 763 *vehicle.* [35 ILCS 120/2-51(f)]

764
 765 B) Application of the rolling stock test for trailers purchased before
 766 August 24, 2017. To qualify for the rolling stock exemption the
 767 trailer must, *during a 12-month period, carry persons or property*
 768 *for hire in interstate commerce for greater than 50% of its total*
 769 *trips for that period or for greater than 50% of its total miles for*
 770 *that period.* Except as provided in subsections (d)(2)(B)(i) through
 771 (iii), *purchasers of trailers must make an election at the time of*
 772 *purchase to use either the trips or mileage method.* [35 ILCS
 773 120/2-51(d)] If the purchase is from an Illinois retailer, the

774 election must be made on a certification described in subsection
 775 (d)(2)(F). If the purchase is from an out-of-state retailer or from a
 776 non-retailer, the election must be documented in the purchaser's
 777 books and records. *If no election is made as required under the*
 778 *provisions of this subsection (d)(2)(B), the person will be deemed*
 779 *to have chosen the mileage method. [35 ILCS 120/2-51(d)] The*
 780 *election to use either the trips or mileage method made as required*
 781 *under this subsection (d)(2)(B) will remain in effect for the*
 782 *duration of the purchaser's ownership of that trailer. [35 ILCS*
 783 *120/2-51(f)] The owner of trailers that are dedicated to a motor*
 784 *vehicle, or group of motor vehicles, may elect at the time of*
 785 *purchase to alternatively document the qualifying use of those*
 786 *trailers in the following manner:*

- 787
- 788 i) *if a trailer is dedicated to a single motor vehicle that*
 789 *qualifies under subsection (d)(2)(A), then that trailer will*
 790 *also qualify for the exemption;*
- 791
- 792 ii) *if a trailer is dedicated to a group of motor vehicles that all*
 793 *qualify under subsection (d)(2)(A), then that trailer will*
 794 *also qualify for the exemption; or*
- 795
- 796 iii) *if one or more trailers are dedicated to a group of motor*
 797 *vehicles and not all of those motor vehicles in that group*
 798 *qualify as rolling stock moving in interstate commerce*
 799 *under subsection (d)(2)(A), then the percentage of those*
 800 *trailers that qualifies for the exemption is equal to the*
 801 *percentage of those motor vehicles in that group that*
 802 *qualify for the exemption. However, the mathematical*
 803 *application of the qualifying percentage to the group of*
 804 *trailers will not be applied to any fraction of a trailer. If*
 805 *the owner of the trailers chooses to use the method*
 806 *provided under this subsection (d)(2)(B)(iii), any trailer or*
 807 *group of trailers that is not considered to qualify for the*
 808 *exemption under the mathematical application of the*
 809 *qualifying percentage will not qualify for the exemption*
 810 *even if documentation for a specific trailer or trailers in that*
 811 *group is provided to show that such a trailer or trailers*
 812 *would have met the test in subsection (d)(2)(B)(i).*
- 813
- 814 iv) For purposes of this subsection (d)(2)(B), "dedicated"
- 815 means that the trailer or trailers are used exclusively by a

816 specific motor vehicle or specific group or fleet of motor
817 vehicles.

818
819 C) Repair and replacement parts for motor vehicles and trailers
820 purchased before August 24, 2017. The definition of "use as
821 rolling stock moving in interstate commerce" required to meet the
822 test for the rolling stock exemption as set forth in subsections
823 (d)(2)(A) for motor vehicles and (d)(2)(B) for trailers *applies to all*
824 *property purchased before August 24, 2017 for the purpose of*
825 *being attached to motor vehicles or trailers as a part thereof.* [35
826 ILCS 120/2-51(c) and (d)] Repair and replacement parts
827 purchased before August 24, 2017 for the purpose of being
828 attached to a motor vehicle or trailer as a part thereof qualify for
829 the rolling stock exemption if, at the time of purchase of the repair
830 or replacement parts and for each of the corresponding motor
831 vehicle's or trailer's consecutive 12-month periods thereafter (i.e.
832 the parts follow the 12-month periods for the rolling stock that they
833 become a part of), the motor vehicle or trailer to which the parts
834 were to be attached met the requirements of subsection (d)(2)(A)
835 or (d)(2)(B), as appropriate, and the purchaser provided a
836 certification to that effect as required in subsection (d)(2)(F),
837 regardless of when the motor vehicle or trailer itself was
838 purchased. For more detail on the application of 12-month periods
839 for repair and replacement parts, see subsection (d)(2)(E)(iii).

840
841 D) Basic guidelines on the trips or miles that may and may not be
842 used to claim the rolling stock exemption for motor vehicles and
843 trailers purchased before August 24, 2017.

844
845 i) For interstate trips or interstate miles to qualify, the
846 interstate trips or miles must be for hire. However, the total
847 amount of trips taken or miles traveled by rolling stock
848 within any 12-month period includes trips or miles for hire
849 and those not for hire. An example of a not for hire trip or
850 not for hire mileage is when a business uses its truck to
851 transport its own merchandise.

852
853 EXAMPLE – Non-Qualifying: A farmer in Decatur,
854 Illinois sells grain to an interstate carrier. The carrier takes
855 delivery of the grain in Decatur and hauls it to Oklahoma
856 City, Oklahoma. The shipment from Decatur, Illinois to
857 Oklahoma City, Oklahoma is not included in the carrier's
858 qualifying interstate trips or miles for hire because the

859 shipment was not for hire. The carrier owned the grain it
860 was shipping interstate. For an interstate trip to qualify, it
861 must be for hire.

862
863 ii) Any use of the rolling stock in a movement from one
864 location to another, including but not limited to mileage
865 incurred by rolling stock returning from a delivery without
866 a load or passengers, shall be counted as a trip or mileage.

867
868 iii) However, the movement of the rolling stock in relation to
869 the maintenance or repair of that rolling stock shall not
870 count as a trip or mileage.

871
872 iv) Any mileage shown for rolling stock that is undocumented
873 as a trip or trips shall be counted as part of the total trips or
874 mileage taken by that rolling stock. If the trips method has
875 been chosen for that rolling stock, the Department shall use
876 its best judgment and information to determine the number
877 of trips represented by such mileage.

878
879 v) A movement whereby rolling stock is returning empty from
880 a trip for hire shall be counted as a trip or mileage for hire.
881 A movement whereby rolling stock is moving to a location
882 where property or passengers are being loaded for a trip for
883 hire shall be counted as a trip or mileage for hire.

884
885 E) Twelve-month periods for motor vehicles and trailers (and repair
886 and replacement parts) purchased before August 24, 2017.

887
888 i) To be eligible for the rolling stock exemption, motor
889 vehicles and trailers must carry persons or property for hire
890 in interstate commerce for greater than 50% of their total
891 trips or for greater than 50% of their total miles for each
892 12-month period subject to the limitations period for
893 issuing a Notice of Tax Liability under the Retailers'
894 Occupation Tax Act [35 ILCS 120/4 and 5] and under the
895 following Acts through incorporation of Sections 4 and 5 of
896 the Retailers' Occupation Tax Act: the Use Tax Act [35
897 ILCS 105/12]; the Service Occupation Tax Act [35 ILCS
898 115/12]; and the Service Use Tax Act [35 ILCS 110/12].
899 The first 12-month period for the use of a motor vehicle or
900 trailer begins on the date of registration or titling with an
901 agency of this State, whichever occurs later. If the motor

902 vehicle or trailer is not required to be titled or registered
903 with an agency of this State or the motor vehicle or trailer
904 is not titled or registered with an agency of this State within
905 the time required, the first 12-month period for use of that
906 motor vehicle or trailer begins on its date of purchase or
907 first use in Illinois, whichever is later.
908

- 909 ii) If a motor vehicle or trailer carries persons or property for
910 hire in interstate commerce in a manner that qualifies for
911 the rolling stock exemption in the first 12-month period,
912 but then does not carry persons or property for hire in
913 interstate commerce in a manner that qualifies for the
914 rolling stock exemption in a subsequent 12-month period,
915 the motor vehicle or trailer and any property attached to
916 that motor vehicle or trailer upon which the rolling stock
917 exemption was claimed will be subject to tax on its original
918 purchase price and tax is due by the last day of the month
919 following the conclusion of the 12-month period in which
920 the exemption conditions are no longer met.
921

922 EXAMPLE: A motor vehicle is used in a qualifying
923 manner for the first 12-month period but is not used in a
924 qualifying manner for the second 12-month period. That
925 motor vehicle will be subject to tax based upon its original
926 purchase price, even if it is then used in a qualifying
927 manner in the third 12-month period. As a result, by the last
928 day of the month following the month in which the rolling
929 stock ceases to qualify for the exemption (at the conclusion
930 of the second 12-month period at which time the purchaser
931 knows that the exemption conditions are no longer met),
932 the purchaser must file a Use Tax return and pay the tax.
933

- 934 iii) For repair and replacement parts to qualify for the rolling
935 stock exemption, the motor vehicle or trailer upon which
936 those parts are installed must be used in a qualifying
937 manner for the motor vehicle's or trailer's 12-month period
938 in which the purchase of the repair or replacement parts
939 occurred and each consecutive 12-month period thereafter
940 (i.e., the parts follow the 12-month periods for the rolling
941 stock that they become a part of). For example, if repair
942 parts were attached or incorporated into a qualifying motor
943 vehicle that was titled and registered prior to the audit
944 period (beyond the limitations period for issuing a Notice

945 of Tax Liability for the vehicle), that motor vehicle must be
946 used in a qualifying manner for the motor vehicle's 12-
947 month period in which the purchase of the repair or
948 replacement parts occurred and each consecutive 12-month
949 period thereafter in order for the parts to qualify for the
950 exemption. This applies regardless of whether the motor
951 vehicle was originally used in a qualifying manner for the
952 12-month periods preceding the motor vehicle's 12-month
953 period in which the purchase of the repair or replacement
954 parts occurred.
955

956 F) Certification of exemption for motor vehicles and trailers
957 purchased before August 24, 2017. To properly claim the rolling
958 stock exemption for motor vehicles and trailers purchased before
959 August 24, 2017, the purchaser must give the seller a certification
960 that the purchaser is an interstate carrier for hire, and that the
961 purchaser is purchasing the property for use as rolling stock
962 moving in interstate commerce.
963

964 i) If the purchaser of a motor vehicle or trailer or repair or
965 replacement parts for a motor vehicle or trailer is an
966 interstate carrier for hire, the purchaser must include its
967 USDOT Number and Interstate Operating Authority
968 Number (MC Number) issued by the FMCSA or must
969 certify that it is a type of interstate carrier for hire (such as
970 an interstate carrier of agricultural commodities for hire)
971 that is not required by law to have an MC Number. In the
972 latter event, the carrier must include its USDOT Number.
973

974 ii) If the carrier is a type that is subject to regulation by some
975 Federal Government regulatory agency other than the
976 FMCSA, the carrier must include its registration number
977 from such other Federal Government regulatory agency in
978 the certification claiming the benefit of the rolling stock
979 exemption.
980

981 iii) If the purchaser of a motor vehicle or trailer or repair or
982 replacement parts for a motor vehicle or trailer is a long-
983 term lessor (under a lease of one year or more in duration),
984 the purchaser must give the seller of the property a
985 certification to that effect, similarly identifying the lessee
986 interstate carrier for hire as provided above (i.e., USDOT
987 Number, MC Number, other number if appropriate).

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- iv) If the purchaser is an owner, lessor, or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property.

- v) The giving of a certification does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases where the purchaser is not the carrier, the carrier's records or activities), the Department finds that the certification was not true as to some fact that shows that the purchase was taxable and should not have been certified as being tax exempt.

- vi) The Department reserves the right to require the purchaser to provide a copy of the purchaser's (or carrier's, in cases where the purchaser is not the carrier) FMCSA or other Federal Government regulatory agency Certificate of Operating Authority (or as much of the certificate as the Department deems adequate to verify the fact that the purchaser (or carrier, in cases where the purchaser is not the carrier) is an interstate carrier for hire) whenever the Department deems it necessary. In cases where the interstate carrier for hire is not required by law to have a USDOT Number, MC Number, or other Federal Government regulatory agency number, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.

- G) Examples applying the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] or the Use Tax Act [35 ILCS 105/12] incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act for motor vehicles purchased before August 24, 2017. In general, except in the 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

1031 January 1 and July 1 for an amended return filed not more than
1032 three years prior to such January 1 or July 1, respectively), no
1033 Notice of Tax Liability shall be issued on and after each January 1
1034 and July 1 covering gross receipts received during any month or
1035 period of time more than three years prior to such January 1 and
1036 July 1, respectively. For further discussion of the statute of
1037 limitations for issuing a Notice of Tax Liability, see Section
1038 130.815.

1039
1040 EXAMPLE 1: A qualifying vehicle was purchased on January 15,
1041 2017 and titled and registered on that date and the appropriate
1042 return was timely filed claiming the rolling stock exemption. The
1043 vehicle was used in a qualifying manner for the first 12-month
1044 period ending on January 15, 2018. However, the vehicle was not
1045 used in a qualifying manner at any time thereafter. The period in
1046 which the Department would be able to issue a Notice of Tax
1047 Liability for tax due regarding that vehicle would expire on June
1048 30, 2020. If the vehicle had been originally purchased and
1049 registered outside Illinois and later relocated and registered in
1050 Illinois, the first 12-month period would begin on the date of
1051 registration in Illinois. For example, if the vehicle was purchased
1052 on January 15, 2017 and titled and registered on that date in
1053 Missouri, but later relocated to Illinois and registered in Illinois on
1054 July 20, 2017, then the period in which the Department would be
1055 able to issue a Notice of Tax Liability for Use Tax due regarding
1056 that vehicle would expire on December 31, 2020.

1057
1058 EXAMPLE 2: A qualifying vehicle was purchased on July 10,
1059 2015, and was titled and registered on that date. On January 12,
1060 2017, the owner purchased new tires for the vehicle and the vehicle
1061 was used in a qualifying manner for the vehicle's 12-month period
1062 ending on July 10, 2017, and the two subsequent 12-month periods
1063 ending on July 10, 2019. However, the vehicle was not used in a
1064 qualifying manner at any time thereafter. The period in which the
1065 Department would be able to issue a Notice of Tax Liability for tax
1066 due regarding the replacement parts (new tires) would expire on
1067 June 30, 2020.

1068
1069 H) Examples applying the greater than 50% trips test for motor
1070 vehicles purchased before August 24, 2017:

1071
1072 EXAMPLE 1 – Qualifying: An interstate carrier uses a truck
1073 whose gross vehicle weight rating exceeds 16,000 pounds to carry

1074 property for hire from Springfield, Illinois to Champaign, Illinois
 1075 where part of the property is delivered. As documented on the bill
 1076 of lading provided to the carrier, that property will be delivered, as
 1077 part of the continuation of the shipment, by another carrier to a
 1078 location outside of Illinois (qualifies as interstate trip because
 1079 documentation of interstate shipment). The truck continues to
 1080 Indianapolis, Indiana and delivers more of the property in that city
 1081 (qualifies as interstate trip because transported out of state). The
 1082 truck then continues to Gary, Indiana and delivers the remainder of
 1083 the property in that city (qualifies as interstate trip because
 1084 shipment originated in Illinois). The truck then returns empty to
 1085 Springfield, Illinois from the delivery in Gary, Indiana (qualifies as
 1086 interstate trip because returning from qualifying trip (see
 1087 subsection (d)(2)(D)(v)). The truck is considered to have made a
 1088 total of four trips (one trip to Champaign, Illinois, one trip to
 1089 Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip
 1090 back to Springfield, Illinois). If these were all the trips that the
 1091 truck made within the first 12-month period (or were all the trips
 1092 that truck made in a subsequent 12-month period), it would qualify
 1093 for the test set forth in subsection (d)(2)(A) for that 12-month
 1094 period because it made 4 qualifying interstate trips for hire, thereby
 1095 resulting in a percentage of 100% of its total trips during that 12-
 1096 month period. Any repair and replacement parts purchased for the
 1097 truck during the first 12-month period would also have qualified
 1098 for the exemption.

1099
 1100 **EXAMPLE 2 – Non-Qualifying:** An interstate carrier uses a truck
 1101 whose gross vehicle weight rating exceeds 16,000 pounds to carry
 1102 property for hire from Chicago, Illinois to Joliet, Illinois where that
 1103 property is delivered for use by the recipient (does not qualify as
 1104 interstate trip because it is strictly intrastate transport). The truck
 1105 then continues to Gary, Indiana and picks up property for use by
 1106 that carrier's business (does not qualify because it is not for hire).
 1107 The truck then returns to Chicago, Illinois (does not qualify
 1108 because returning from a non-qualifying trip out of state). The
 1109 truck is considered to have made a total of three trips (one to Joliet,
 1110 Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois).
 1111 If these were all the trips that the truck made within the first 12-
 1112 month period (or were all the trips that truck made in a subsequent
 1113 12-month period), it would not qualify for the test set forth in
 1114 subsection (d)(2)(A) for that 12-month period because these trips
 1115 resulted in a 0 percentage of qualifying interstate trips for hire.
 1116

1117 I) Examples of application of the greater than 50% mileage test for
1118 motor vehicles purchased before August 24, 2017:
1119

1120 EXAMPLE 1 – Qualifying: An interstate carrier uses a truck
1121 whose gross vehicle weight rating exceeds 16,000 pounds to carry
1122 property for hire from Springfield, Illinois to Champaign, Illinois
1123 (88 mile movement) where part of the property is delivered. As
1124 documented on the bill of lading provided to the carrier, that
1125 property will be delivered, as part of the continuation of the
1126 shipment, by another carrier to a location outside of Illinois
1127 (qualifies as interstate miles because documentation of interstate
1128 shipment). The truck continues to Indianapolis, Indiana (125 mile
1129 movement) and delivers more of the property in that city (qualifies
1130 as interstate trip because transported out of state). The truck then
1131 continues to Hammond, Indiana (151 mile movement) and delivers
1132 the remainder of the property in that city (qualifies as interstate trip
1133 because shipment originated in Illinois). The truck then returns
1134 empty to Springfield, Illinois (204 mile movement) from the
1135 delivery in Hammond, Indiana (qualifies as interstate trip because
1136 returning from qualifying trip (see subsection (d)(2)(D)(v)). The
1137 truck is considered to have driven a total of 568 qualifying miles.
1138 If these were all the miles that the truck was driven within the first
1139 12-month period (or were all the miles that truck was driven in a
1140 subsequent 12-month period), it would qualify for the test set forth
1141 in subsection (d)(2)(A) for that 12-month period because 100% of
1142 its miles were for qualifying interstate movements for hire. Any
1143 repair or replacement parts purchased for the truck during the first
1144 12-month period would also have qualified for the exemption.
1145

1146 EXAMPLE 2 – Non-Qualifying: If the truck described above in
1147 Example 1 had instead traveled a total of 1,568 miles during that
1148 12-month period with 1,000 of those miles not being documented
1149 as qualifying miles, the truck would not have qualified for the
1150 exemption because it only had 568 qualifying miles out of 1,568
1151 miles for a 36.22% qualifying percentage. Any repair or
1152 replacement parts purchased for the truck would not have qualified
1153 for the exemption.
1154

1155 EXAMPLE 3 – Qualifying and Non-Qualifying: A short-term
1156 truck leasing company (e.g., 3 months) leases trucks whose gross
1157 vehicle weight rating exceeds 16,000 pounds. The trucks are
1158 typically leased to persons who transport property in interstate
1159 commerce. The leasing company requires its customers to provide

1160 detailed records of the destination of each trip of a leased truck and
1161 whether the transport was for hire. One of the leasing company's
1162 trucks travels 3,000 miles during its first 12-month period, 4,500
1163 miles during its second 12-month period, and 2,800 miles during
1164 its third 12-month period. The leasing company can show through
1165 the records it collects that, for each 12-month period, the truck
1166 carried property in interstate commerce for hire for greater than
1167 50% of the miles traveled by the truck. For another truck,
1168 however, the records show that, for the second 12-month period,
1169 the truck did not transport property in interstate commerce for hire.
1170 This is because of the combination of (i) trips that were strictly in-
1171 state and for which the property did not originate or terminate out
1172 of state and (ii) trips that were not for hire, but rather were trips in
1173 which the customer hauled its own property. A third truck did not
1174 qualify for the exemption because the leasing company could not
1175 provide the documentation to support its claim that the truck was
1176 used in each of the 12-month periods to carry persons or property
1177 for hire in interstate commerce for greater than 50% of its total
1178 trips or total miles for that period.

1179
1180 J) Examples where trailers are dedicated to a motor vehicle or motor
1181 vehicles.

1182
1183 EXAMPLE 1: A trucking company owns 2 trailers that are
1184 dedicated to the company's 2 trucks and the owner elected at
1185 purchase to document the qualification of the trailers based on the
1186 qualification of the trucks to which they would be dedicated. Both
1187 of these trucks qualify for the exemption. Both the trailers will be
1188 considered to have met the requirements for the exemption during
1189 those periods.

1190
1191 EXAMPLE 2: A trucking company owns 30 trailers. All of those
1192 trailers are dedicated to a subsidiary company's 20 truck fleet and
1193 the owner elected at purchase to document the qualification of the
1194 trailers based on the qualification of the trucks to which they
1195 would be dedicated. Only 19 of those 20 trucks qualify for the
1196 exemption for the appropriate 12-month periods. The qualifying
1197 percentage for the group of trucks for which all of the trailers are
1198 dedicated is 95%. The application of the 95% qualifying
1199 percentage to the 30 trailer group would represent 28.5 trailers.
1200 Because no fraction of a trailer may qualify under the
1201 mathematical application of the qualifying percentage, only 28 of

1202 the 30 trailers will be considered to have met the requirements for
1203 the exemption during those periods.

1204
1205 e) Limousines. This subsection (e) sets forth the specific requirements to qualify for
1206 the rolling stock exemption for limousines.

1207
1208 1) Application of the rolling stock test for limousines. Except as provided in
1209 subsection (e)(7), a limousine, as defined in subsection (b), will qualify
1210 for the rolling stock exemption if, *during a 12-month period, it carries*
1211 *persons or property for hire in interstate commerce for greater than 50%*
1212 *of its total trips for that period or for greater than 50% of its total miles*
1213 *for that period. Persons claiming the rolling stock exemption for a*
1214 *limousine must make an election at the time of purchase to use either the*
1215 *trips or mileage method to document that the limousine will be used in a*
1216 *manner that qualifies for the exemption. [35 ILCS 120/2-51(c)]*

1217
1218 A) If the purchase is from an Illinois retailer, the election must be
1219 made on a certification as provided in subsection (e)(5). If the
1220 purchase is from an out-of-state retailer or from a non-retailer, the
1221 election must be documented in the purchaser's books and records.

1222
1223 B) *If no election is made as required under subsection (e)(1)(A), the*
1224 *person will be deemed to have chosen the mileage method.*

1225
1226 C) Once such an election for a limousine has been made, or is deemed
1227 to have been made, the method used to document the qualification
1228 of that limousine for the rolling stock exemption *will remain in*
1229 *effect for the duration of the purchaser's ownership of that*
1230 *limousine. [35 ILCS 120/2-51(f)]*

1231
1232 2) Repair and replacement parts for limousines. The definition of "use as
1233 rolling stock moving in interstate commerce" required to meet the test for
1234 the rolling stock exemption as set forth in subsection (e)(1) *applies to all*
1235 *property purchased for the purpose of being attached to the limousine as a*
1236 *part thereof. [35 ILCS 120/2-51(c)] Except as provided in subsection*
1237 *(e)(7), repair*~~Repair~~ *and replacement parts purchased for the purpose of*
1238 *being attached to a limousine as a part thereof qualify for the rolling stock*
1239 *exemption if, at the time of purchase of the repair or replacement parts and*
1240 *for each of the corresponding limousine's consecutive 12-month periods*
1241 *thereafter (i.e., the parts follow the 12-month periods for the rolling stock*
1242 *that they become a part of), the limousine to which the parts will be*
1243 *attached meets the requirements of subsection (e)(1) and the purchaser*
1244 *provides a certification to that effect as required in subsection (e)(5),*

1245 regardless of when the limousine itself was purchased. For more detail on
1246 the application of 12-month periods for repair and replacement parts, see
1247 subsection (e)(4) incorporating the provision of subsection (d)(2)(E)(iii).
1248

- 1249 3) Basic guidelines on the trips or miles that may and may not be used to
1250 claim the rolling stock exemption for limousines.
 - 1251
 - 1252 A) For interstate trips or interstate miles to qualify, the interstate trips
1253 or miles must be for hire. However, the total amount of trips taken
1254 or miles traveled by a limousine in any 12-month period includes
1255 trips or miles for hire and those not for hire. An example of a not
1256 for hire trip or not for hire mileage is when a business uses its
1257 limousine to transport its own employees.
1258
 - 1259 B) Any use of the limousine in a movement from one location to
1260 another, including but not limited to mileage incurred by a
1261 limousine returning from a delivery without a passenger, shall be
1262 counted as a trip or mileage.
1263
 - 1264 C) However, the movement of the limousine in relation to the
1265 maintenance or repair of that limousine shall not count as a trip or
1266 mileage.
1267
 - 1268 D) Any mileage shown for a limousine that is undocumented as a trip
1269 or trips shall be counted as part of the total trips or mileage taken
1270 by that limousine. If the trips method has been chosen for that
1271 limousine, the Department shall use its best judgment and
1272 information to determine the number of trips represented by such
1273 mileage.
1274
 - 1275 E) A movement whereby a limousine is returning empty from a trip
1276 for hire shall be counted as a trip or mileage for hire. A movement
1277 whereby a limousine is moving to a location where passengers are
1278 being loaded for a trip for hire shall be counted as a trip or mileage
1279 for hire.
1280
 - 1281 F) A limousine that carries for hire a person to or from an airport is
1282 presumed, absent evidence to the contrary, to be carrying a person
1283 whose journey originates or terminates outside Illinois, even if the
1284 limousine travels just between points in Illinois.
1285

1286 EXAMPLE 1 – Qualifying: A limousine picks up passengers at
1287 their residence in downtown Chicago and drives them to O'Hare

1288 International Airport. This trip is presumed, absent evidence to the
1289 contrary, to be a qualifying trip or miles for purposes of the
1290 exemption. In addition, the limousine picks up more passengers at
1291 O'Hare International Airport and drives them to a hotel in
1292 downtown Chicago. This trip is also presumed, absent evidence to
1293 the contrary, to be a qualifying trip or miles for purposes of the
1294 exemption.

1295
1296 EXAMPLE 2 – Non-Qualifying: A major corporation owns a
1297 limousine that it uses to transport employees to and from O'Hare
1298 International Airport for business travel. These limousine trips are
1299 not qualifying trips or miles for purposes of the exemption because
1300 they are not for hire.

1301
1302 4) Twelve-month periods for limousines (and repair and replacement parts
1303 for limousines). The guidelines provided in subsection (d)(2)(E) apply to
1304 limousines the same as if set forth here, except that the limitation in that
1305 subsection to purchases made before August 24, 2017, does not apply and
1306 references to motor vehicles and trailers mean limousines.

1307
1308 5) Certification of exemption for limousines. To properly claim the rolling
1309 stock exemption, the purchaser must give the seller a certification the
1310 purchaser is an interstate carrier for hire, and the purchaser is purchasing
1311 the limousine, as defined in this Section, or repair or replacement parts for
1312 a limousine for use as rolling stock moving in interstate commerce.

1313
1314 A) If the purchaser is an owner or lessor of a limousine that will be
1315 utilized by interstate carriers for hire for use as rolling stock
1316 moving in interstate commerce, the purchaser must give the seller
1317 of the property a certification to that effect, similarly identifying
1318 the lessee or other interstate carrier for hire that will utilize the
1319 property.

1320
1321 B) The giving of a certification does not preclude the Department
1322 from disregarding it and assessing Use Tax against the purchaser
1323 if, in examining the purchaser's records or activities (or, in cases
1324 where the purchaser is not the carrier, the carrier's records or
1325 activities), the Department finds the certification was not true as to
1326 some fact that shows that the purchase was taxable and should not
1327 have been certified as being tax exempt.

1328
1329 C) In cases where the interstate carrier for hire is not required by law
1330 to have a USDOT Number, MC Number, or other Federal

1331 Government regulatory agency number, the Department reserves
1332 the right to require the carrier (or purchaser, if the carrier is not the
1333 purchaser) to provide other evidence of eligibility for the
1334 exemption and to keep records documenting the rolling stock's
1335 eligibility for the exemption.
1336

1337 6) Examples. The Examples in subsections (d)(2)(G), (H), and (I) apply to
1338 limousines the same as if set forth here, except that references to motor
1339 vehicles mean limousines.
1340

1341 7) *On and after July 1, 2025, the exemption for limousines applies only if*
1342 *those limousines are not used to provide transportation network company*
1343 *services, as defined in the Transportation Network Providers Act (625*
1344 *ILCS 57/1). Repair and replacement parts purchased on or after July 1,*
1345 *2025 do not qualify for the rolling stock exemption if they are purchased*
1346 *for the purpose of being attached to a limousine used to provide*
1347 *transportation network company services, as defined in the Transportation*
1348 *Network Providers Act. "Transportation network company services" or*
1349 *"TNC services" means transportation of a passenger between points*
1350 *chosen by the passenger and prearranged with a TNC driver through the*
1351 *use of a TNC digital network or software application. TNC services shall*
1352 *begin when a TNC driver accepts a request for transportation received*
1353 *through the TNC's digital network or software application service,*
1354 *continue while the TNC driver transports the passenger in the TNC*
1355 *driver's vehicle, and end when the passenger exits the TNC driver's*
1356 *vehicle. TNC service is not a taxicab, for-hire vehicle, or street hail*
1357 *service. [625 ILCS 57/5]*
1358

1359 f) Aircraft.
1360

1361 1) Application of the rolling stock test for aircraft. *For aircraft purchased on*
1362 *or after January 1, 2014, "use as rolling stock moving in interstate*
1363 *commerce" occurs when, during a 12-month period, the rolling stock has*
1364 *carried persons or property for hire in interstate commerce for greater*
1365 *than 50% of its total trips for that period or for greater than 50% of its*
1366 *total miles for that period. [35 ILCS 120/2-51(e)] For aircraft purchased*
1367 *before January 1, 2014 to be eligible for the exemption, the taxpayer is*
1368 *required to show the aircraft transported persons or property for hire in*
1369 *interstate commerce on a "regular and frequent" basis. See National*
1370 *School Bus Service, Inc. v. Department of Revenue, 302 Ill. App. 3d 820*
1371 *(1st Dist. 1998). The person claiming the exemption shall make an*
1372 *election at the time of purchase to use either the trips or mileage method*

- 1373 *and document that election in their books and records. [35 ILCS 120/2-*
1374 *51(e)]*
1375
1376 A) If the purchase is from an Illinois retailer, the election must be
1377 made on a certification as provided in subsection (f)(6). If the
1378 purchase is from an out-of-state retailer or from a non-retailer, the
1379 election must be documented in the purchaser's books and records.
1380
1381 B) *If no election is made under subsection (f)(1)(A) to use the trips or*
1382 *mileage method, the person shall be deemed to have chosen the*
1383 *mileage method. [35 ILCS 120/2-51(e)] For aircraft, flight hours*
1384 *may be used in lieu of recording miles in determining whether the*
1385 *aircraft meets the mileage test in subsection (f)(1). [35 ILCS*
1386 *120/2-51(f)]*
1387
1388 C) Once such an election for an aircraft has been made, or is deemed
1389 to have been made if no election is made, the method used to
1390 document the qualification of that aircraft for the rolling stock
1391 exemption *will remain in effect for the duration of the purchaser's*
1392 *ownership of that aircraft. [35 ILCS 120/2-51(f)]*
1393
1394 2) Repair and replacement parts for aircraft. *Notwithstanding any other*
1395 *provision of law to the contrary, property purchased on or after January*
1396 *1, 2014 for the purpose of being attached to aircraft as a part thereof*
1397 *qualifies as rolling stock moving in interstate commerce only if the*
1398 *aircraft to which it will be attached qualifies as rolling stock moving in*
1399 *interstate commerce under the test set forth in subsection (f)(1),*
1400 *regardless of when the aircraft was purchased. Persons who purchased*
1401 *aircraft prior to January 1, 2014 shall make an election to use either the*
1402 *trips or mileage method and document that election in their books and*
1403 *records for the purpose of determining whether property purchased on or*
1404 *after January 1, 2014 for the purpose of being attached to aircraft as a*
1405 *part thereof qualifies as rolling stock moving in interstate commerce*
1406 *under subsection (f)(1). [35 ILCS 120/2-51(e)] Repair and replacement*
1407 *parts purchased for the purpose of being attached to an aircraft as a part*
1408 *thereof qualify for the rolling stock exemption if, at the time of purchase*
1409 *of the repair or replacement parts and for each of the corresponding*
1410 *aircraft's consecutive 12-month periods thereafter (i.e., the parts follow the*
1411 *12-month periods for the rolling stock that they become a part of), the*
1412 *aircraft to which the parts will be attached meets the requirements of*
1413 *subsection (f)(1) and the purchaser provides a certification to that effect as*
1414 *required in subsection (f)(6), regardless of when the aircraft itself was*
1415 *purchased. For more detail on the application of 12-month periods for*

- 1416 repair and replacement parts, see subsection (f)(4) incorporating the
1417 provision of subsection (d)(2)(E)(iii).
1418
- 1419 3) Basic guidelines on the trips or miles that may and may not be used to
1420 claim the rolling stock exemption for aircraft.
1421
- 1422 A) For interstate trips or interstate miles (or flight hours used in lieu of
1423 miles) to qualify, the interstate trips or miles (or flight hours used
1424 in lieu of miles) must be for hire. However, the total amount of
1425 trips taken or miles (or flight hours used in lieu of miles) traveled
1426 by an aircraft within any 12-month period includes trips or miles
1427 (or flight hours used in lieu of miles) for hire and those not for
1428 hire. An example of a not for hire trip or not for hire mileage (or
1429 flight hours used in lieu of mileage) is when a business uses its
1430 aircraft to transport its own employees or cargo.
1431
- 1432 B) Any use of an aircraft in a movement from one location to another,
1433 including but not limited to mileage (or flight hours used in lieu of
1434 mileage) incurred by an aircraft returning from a delivery without a
1435 load or passengers, shall be counted as a trip or mileage (or flight
1436 hours used in lieu of mileage).
1437
- 1438 C) However, the movement of an aircraft in relation to the
1439 maintenance or repair of that aircraft shall not count as a trip or
1440 mileage (or flight hours used in lieu of mileage).
1441
- 1442 D) Any mileage (or flight hours used in lieu of mileage) shown for an
1443 aircraft that is undocumented as a trip or trips shall be counted as
1444 part of the total trips or mileage (or flight hours used in lieu of
1445 mileage) taken by that aircraft. If the trips method has been chosen
1446 for that aircraft, the Department shall use its best judgment and
1447 information to determine the number of trips represented by such
1448 mileage (or flight hours used in lieu of mileage).
1449
- 1450 E) A movement whereby an aircraft is returning empty from a trip for
1451 hire shall be counted as a trip or mileage (or flight hours used in
1452 lieu of mileage) for hire. A movement whereby an aircraft is
1453 moving to a location where property or passengers are being
1454 loaded for a trip for hire shall be counted as a trip or mileage (or
1455 flight hours used in lieu of mileage) for hire.
1456
- 1457 F) The movement of an aircraft during the first 6 months after
1458 purchase or during the first 100 flight hours after purchase,

1459 whichever comes first, in relation to inspection or in furtherance of
1460 aircraft certification under the Federal Aviation Regulations related
1461 to inspection or certification of aircraft for flights for hire does not
1462 count as a trip or mileage for purposes of determining whether the
1463 aircraft meets the trips or mileage (or flight hours used in lieu of
1464 mileage) test for the exemption. To qualify under this subsection
1465 (f)(3)(F), taxpayer must maintain records specifically documenting
1466 the nature of the inspection or certification.
1467

1468 EXAMPLE 1 – (Aircraft Inspection Flight): To generate more
1469 charter business, an aircraft owner decides to provide inflight Wi-
1470 Fi to passengers. Because the Wi-Fi equipment has the potential to
1471 create electromagnetic interference with an aircraft's instruments,
1472 the aircraft is required to conduct a test flight before returning to
1473 service. *See, e.g.*, Federal Aviation Administration ("FAA")
1474 Advisory Circular AC No. 25-7D (5/4/2018), § 32.1 *et seq.* If the
1475 test flight occurs within the first 6 months after purchase or during
1476 the first 100 flight hours after purchase, whichever comes first,
1477 then the test flight will not be included in the rolling stock
1478 determination as a trip or miles (or flight hours used in lieu of
1479 miles).
1480

1481 EXAMPLE 2 – (Aircraft Certification Flight): Pursuant to 14
1482 C.F.R. 91 Appendix G, § 9, and FAA Advisory Circular AC No.
1483 91-85B (1/29/2019), 4.3.5, the FAA has a recurrent height-
1484 monitoring program for all operators planning flights in Reduced
1485 Vertical Separation Minimum (RVSM) airspace. In the United
1486 States, RVSM monitoring requirements can be met by flying over
1487 an FAA Aircraft Geometric Height Measurement Element
1488 Constellation site. This RVSM monitoring flight will not be
1489 included in the rolling stock determination as a trip or miles (or
1490 flight hours used in lieu of miles), if the flight is conducted within
1491 the first six months after purchase or during the first 100 flight
1492 hours after purchase, whichever comes first.
1493

1494 G) The movement of an aircraft during the first six months after
1495 purchase or during the first 100 flight hours per pilot after
1496 purchase, whichever comes first, in relation to flight time required
1497 for pilot certification of eligibility for conducting for hire flights,
1498 or the meeting of FAA or other governmental requirements, rules,
1499 or standards to carry persons or property for hire without pilot
1500 operating limitations does not count as a trip or mileage (or flight
1501 hours used in lieu of mileage) for purposes of determining whether

1502 the aircraft meets the trips or mileage (or flight hours used in lieu
1503 of mileage) test for the exemption. To qualify under this subsection
1504 (f)(3)(G), taxpayer's records must specifically document that the
1505 movement was for pilot certification of eligibility for conducting
1506 for hire flights or to meet other requirements to carry persons or
1507 property for hire without pilot operating limitations.
1508

1509 EXAMPLE 1 – (Pilot Certification Flight): Pursuant to 14 C.F.R.
1510 135.299, no charter operator may use a pilot, nor may any person
1511 serve as a pilot in command of a flight, unless, since the beginning
1512 of the 12th calendar month before that service, that pilot has passed
1513 a flight check in one of the types of aircraft in which that pilot is to
1514 fly. The flight check shall (i) be given by an approved check pilot
1515 or by an FAA administrator; (ii) consist of at least one flight over
1516 one route segment; and (iii) include takeoffs and landings at one or
1517 more representative airports. These pilot certification flights
1518 conducted pursuant to 14 C.F.R. 135.299 will not be included in
1519 the rolling stock determination as a trip or miles (or flight hours
1520 used in lieu of miles), if the flights are conducted within the first 6
1521 months after purchase or during the first 100 flight hours per pilot
1522 after purchase, whichever comes first.
1523

1524 EXAMPLE 2 – (Pilot Certification Flight): Pursuant to 14 C.F.R.
1525 135.4, for a two-pilot crew to operate an aircraft without pilot
1526 operating limitations under 14 C.F.R. 135 (on-demand charter
1527 operations), the two pilots are each required to have 100 hours of
1528 flight time in the aircraft type. Flights conducted in the aircraft
1529 type which count towards the pilots meeting their 100 hours of
1530 flight time under Part 135.4 will not be included in the rolling
1531 stock determination as a trip or miles (or flight hours used in lieu
1532 of miles), if the flights occur within the first 6 months after
1533 purchase or during the first 100 flight hours per pilot after
1534 purchase, whichever comes first.
1535

1536 4) Twelve-month periods for aircraft (and repair and replacement parts for
1537 aircraft). The guidelines provided in subsection (d)(2)(E) apply to aircraft
1538 the same as if set forth here, except that the limitation in that subsection to
1539 purchases made before August 24, 2017, does not apply and references to
1540 motor vehicles and trailers mean aircraft.
1541

1542 5) Purchases by lessors of aircraft under a lease for one year or longer. *When*
1543 *an aircraft is purchased by a lessor, under a lease for one year or longer,*
1544 *executed or in effect at the time of purchase to an interstate carrier for*

1545 *hire, who did not pay the tax imposed by this Act to the retailer, such*
1546 *lessor (by the last day of the month following the calendar month in which*
1547 *such property reverts to the use of such lessor) shall file a return with the*
1548 *Department and pay the tax upon the fair market value of such property*
1549 *on the date of such reversion. However, in determining the fair market*
1550 *value at the time of reversion, the fair market value of such property shall*
1551 *not exceed the original purchase price of the property that was paid by the*
1552 *lessor at the time of purchase. [35 ILCS 105/10] When the aircraft is no*
1553 *longer used in a manner that qualifies for the rolling stock exemption as*
1554 *provided in this subsection (f)(5), the lessor shall file a return with the*
1555 *Department and pay the tax to the Department by the last day of the month*
1556 *following the calendar month in which the property is no longer subject to*
1557 *a qualifying lease.*
1558

1559 EXAMPLE: An aircraft was purchased for lease to an interstate carrier
1560 for hire on August 15, 2020 and was titled and registered on that date. The
1561 lease to the interstate carrier for hire was executed or in effect at the time
1562 of purchase. The appropriate return was timely filed claiming the rolling
1563 stock exemption. The qualifying lease ended on November 15, 2021, and
1564 the aircraft was no longer used in a qualifying manner. At the time the
1565 qualifying lease ends and the aircraft reverts to the lessor, the lessor owes
1566 Use Tax on the fair market value of the aircraft on the date it reverts to the
1567 lessor. The return and the tax are due by the last day of the month
1568 following the month in which the aircraft reverts to the lessor. The period
1569 in which the Department would be able to issue a Notice of Tax Liability
1570 for Use Tax due regarding that aircraft would expire on December 31,
1571 2024.
1572

- 1573 6) Certification of exemption for aircraft. To properly claim the rolling stock
1574 exemption, the purchaser must give the seller a certification that the
1575 purchaser is an interstate carrier for hire, and that the purchaser is
1576 purchasing the aircraft, or repair or replacement parts for an aircraft, for
1577 use as rolling stock moving in interstate commerce.
1578
- 1579 A) If the purchaser is a lessor, the purchaser must give the seller of the
1580 property a certification to that effect, identifying the lessee that
1581 will utilize the property.
1582
- 1583 B) If the purchaser of an aircraft or repair or replacement parts for an
1584 aircraft is an interstate carrier for hire, the purchaser must include
1585 its Air Carrier Certificate issued by the Federal Aviation
1586 Administration.
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- C) If the purchaser of an aircraft or repair or replacement parts for an aircraft is a long-term lessor (under a lease of one year or more in duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire as provided above (i.e., Air Carrier Certificate issued by the Federal Aviation Administration).
 - D) If the purchaser is an owner, lessor, or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property. For example, an Air Carrier Certificate issued by the Federal Aviation Administration to the purchaser (or the lessee of the purchaser if the lessee is the carrier) that authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Part 135 of the Federal Aviation Regulations (49 C.F.R. 135) would be evidence the carrier is an authorized interstate carrier for hire.
 - E) The giving of a certification does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases where the purchaser is not the carrier, the carrier's records or activities), the Department finds that the certification was not true as to some fact that shows the purchase was taxable and should not have been certified as being tax exempt.
 - F) In cases where the interstate carrier for hire is not required by law to have a federal government regulatory agency authorizing it to conduct common carriage operations, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.
- 7) Examples applying the limitations period for issuing a Notice of Tax Liability for aircraft. The Examples in subsection (d)(2)(G) apply to aircraft the same as if set forth here, except that references to motor vehicles mean aircraft.
- 8) Examples of application of the greater than 50% trips test for aircraft:

1631 EXAMPLE 1 – (Aircraft – Qualifying): The owner of an aircraft has been
 1632 issued an Air Carrier Certificate by the Federal Aviation Administration
 1633 which authorizes the certificate holder to operate as an air carrier and
 1634 conduct common carriage operations in accordance with Part 135 of the
 1635 Federal Aviation Regulations (49 C.F.R. 135). The owner of the aircraft
 1636 operates a charter air carrier company and uses the aircraft to carry
 1637 passengers for hire from O'Hare Airport in Chicago, Illinois to
 1638 MidAmerica St. Louis Airport in Mascoutah, Illinois where some of the
 1639 passengers deplane. As documented on the itinerary provided to the
 1640 carrier, those passengers will be flown, as part of the continuation of their
 1641 journey, by another carrier to a location outside of Illinois (qualifies as
 1642 interstate trip because documentation of interstate travel). The aircraft
 1643 continues to Indianapolis, Indiana and more passengers deplane in
 1644 Indianapolis (qualifies as interstate trip because transported out of state).
 1645 The aircraft then continues to Philadelphia, Pennsylvania and the
 1646 remainder of the passengers deplane in Philadelphia (qualifies as interstate
 1647 trip because transported out of state). The aircraft then returns empty to
 1648 O'Hare Airport from Philadelphia (qualifies as interstate trip because
 1649 returning from qualifying trip (see subsection (d)(2)(D)(v))). The aircraft
 1650 is considered to have made a total of four trips (one trip to Mascoutah,
 1651 Illinois, one trip to Indianapolis, Indiana, one trip to Philadelphia,
 1652 Pennsylvania, and a return trip back to Chicago, Illinois). If these were all
 1653 the trips that the aircraft made within the first 12-month period (or were all
 1654 the trips that aircraft made in a subsequent 12-month period), it would
 1655 qualify for the test set forth in subsection (f)(1) for that 12-month period
 1656 because it made 4 qualifying interstate trips for hire, thereby resulting in a
 1657 percentage of 100% of its total trips during that first 12-month period. Any
 1658 repair or replacement parts purchased for the aircraft during that first 12-
 1659 month period would also have qualified for the exemption.

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 1661 EXAMPLE 2 – (Aircraft – Non-Qualifying): The owner of an aircraft has
 1662 been issued an Air Carrier Certificate by the Federal Aviation
 1663 Administration which authorizes the certificate holder to operate as an air
 1664 carrier and conduct common carriage operations in accordance with Part
 1665 135 of the Federal Aviation Regulations (49 C.F.R. 135). The owner of
 1666 the aircraft operates a charter air carrier company and uses the aircraft to
 1667 carry passengers for hire from O'Hare Airport in Chicago, Illinois to
 1668 Abraham Lincoln Capitol Airport in Springfield, Illinois where the
 1669 passengers deplane (does not qualify as interstate trip because it is strictly
 1670 intrastate transport). The aircraft then continues to Indianapolis, Indiana
 1671 and picks up employees of the charter aircraft company (does not qualify
 1672 because it must be for hire). The aircraft then returns to Chicago, Illinois
 1673 (does not qualify because returning from a non-qualifying trip out of

1674 state). The aircraft is considered to have made a total of three trips (one to
 1675 Springfield, Illinois, one to Indianapolis, Indiana, and a return trip to
 1676 Chicago, Illinois). If these were all the trips the aircraft made within the
 1677 first 12-month period (or were all the trips that aircraft made in a
 1678 subsequent 12-month period), it would not qualify for the test set forth in
 1679 subsection (f)(1) for that 12-month period because 0% of these trips
 1680 qualified as interstate trips for hire. Any repair or replacement parts
 1681 purchased for the aircraft during that first 12-month period would also not
 1682 have qualified for the exemption.
 1683

1684 EXAMPLE 3 – (Aircraft – Non-Qualifying): A corporation purchases a
 1685 jet aircraft and leases it to a qualifying interstate air carrier for hire. The
 1686 lease was in effect at the time of purchase. An election is made to use the
 1687 trips test method on the Rolling Stock Certification form. During the first
 1688 12-month period, the aircraft had 100 trips. Of that total, 50 trips were for
 1689 the transportation of company employees. Another 25 trips were for non-
 1690 qualifying intrastate flights for hire. The remaining 25 trips were for
 1691 qualifying interstate movements for hire. The aircraft does not qualify for
 1692 the rolling stock exemption as 75% of its trips (75/100) were for non-
 1693 qualifying movements.
 1694

- 1695 9) Examples of application of the greater than 50% mileage (or flight hours
 1696 used in lieu of mileage) test for aircraft:
 1697

1698 EXAMPLE 1 – (Aircraft – Qualifying): The owner of an aircraft has been
 1699 issued an Air Carrier Certificate by the Federal Aviation Administration
 1700 which authorizes the certificate holder to operate as an air carrier and
 1701 conduct common carriage operations in accordance with Part 135 of the
 1702 Federal Aviation Regulations (49 C.F.R. 135). The owner of the aircraft
 1703 operates a charter air carrier company and uses the aircraft to carry
 1704 passengers for hire from MidAmerica St. Louis Airport in Mascoutah,
 1705 Illinois to Chicago Midway International Airport in Chicago, Illinois (1
 1706 hour flight time) where some of the passengers deplane. As documented
 1707 on the itinerary provided to the carrier, those passengers will be flown, as
 1708 part of the continuation of their journey, by another carrier to a location
 1709 outside of Illinois (qualifies as interstate miles because documentation of
 1710 interstate travel). The aircraft continues to LaGuardia Airport, New York
 1711 City, New York (2 hours flight time) and more passengers deplane at
 1712 LaGuardia (qualifies as interstate trip because transported out of state).
 1713 The aircraft then continues to Indianapolis International Airport,
 1714 Indianapolis, Indiana (2 hours flight time) and the remainder of the
 1715 passengers deplane in Indianapolis (qualifies as interstate trip because
 1716 passengers originated in Illinois). The aircraft then returns empty to

1717 MidAmerica St. Louis Airport, Mascoutah, Illinois (30 minutes flight
 1718 time) from the stop in Indianapolis, Indiana (qualifies as interstate trip
 1719 because returning from qualifying trip (see subsection (d)(2)(D)(v))). The
 1720 aircraft is considered to have flown a total of 5 hours and 30 minutes flight
 1721 time. If these were all the flight hours that the aircraft flew within the first
 1722 12-month period (or were all the flight hours that the aircraft flew in a
 1723 subsequent 12-month period), it would qualify for the test set forth in
 1724 subsection (f)(1) for that 12-month period because 100% of its flight hours
 1725 were for qualifying interstate movements for hire. Any repair or
 1726 replacement parts purchased for the aircraft by the owner of the aircraft
 1727 would also have qualified for the exemption.
 1728

1729 EXAMPLE 2 – (Aircraft – Non-Qualifying): If the aircraft described
 1730 above in Example 1 had traveled instead a total of 24 hours and 45
 1731 minutes during that 12-month period with 16 hours and 30 minutes of
 1732 those flight hours not being documented as qualifying flight hours, the
 1733 aircraft would not have qualified for the exemption because only 8 hours
 1734 and 15 minutes of its flight hours qualified out of 24 hours and 45 minutes
 1735 total flight hours for a 33.33% qualifying percentage. Any repair or
 1736 replacement parts purchased by the owner for the aircraft would not have
 1737 qualified for the exemption.
 1738

1739 EXAMPLE 3 – (Aircraft – Non-Qualifying): A corporation purchases a
 1740 jet aircraft and leases it to a qualifying interstate air carrier for hire. The
 1741 lease was in effect at the time of purchase. An election is made to use the
 1742 mileage test method on the Rolling Stock Certification form and use flight
 1743 hours instead of mileage. During the first 12-month period, the aircraft
 1744 had 400 hours of flight time. Of that total, 250 hours were for the
 1745 transportation of company employees. Another 50 hours were for non-
 1746 qualifying intrastate flights for hire. The remaining 100 hours of flight
 1747 time were for qualifying interstate movements for hire. The aircraft does
 1748 not qualify for the rolling stock exemption as 75% of its flight hours
 1749 (300/400) were for non-qualifying movements.
 1750

1751 g) Watercraft.

1752
 1753 1) Application of the rolling stock test for watercraft. *For watercraft*
 1754 *purchased on or after January 1, 2014, "use as rolling stock moving in*
 1755 *interstate commerce" occurs when, during a 12-month period, the rolling*
 1756 *stock has carried persons or property for hire in interstate commerce for*
 1757 *greater than 50% of its total trips for that period or for greater than 50%*
 1758 *of its total miles for that period. [35 ILCS 120/2-51(e)] Persons claiming*
 1759 *the exemption shall make an election at the time of purchase to use either*

1760 *the trips or mileage method and document that election in their books and*
1761 *records.*

1762
1763 A) If the purchase is from an Illinois retailer, the election must be
1764 made on a certification as provided in subsection (g)(6). If the
1765 purchase is from an out-of-state retailer or from a non-retailer, the
1766 election must be documented in the purchaser's books and records.

1767
1768 B) *If no election is made under subsection (g)(1)(A) to use the trips or*
1769 *mileage method, the person shall be deemed to have chosen the*
1770 *mileage method. For watercraft, nautical miles or trip hours may*
1771 *be used in lieu of recording miles in determining whether the*
1772 *watercraft meets the mileage test in subsection (g)(1).*

1773
1774 C) Once such an election for a watercraft has been made, or is deemed
1775 to have been made if no election is made, the method used to
1776 document the qualification of that watercraft for the rolling stock
1777 exemption *will remain in effect for the duration of the purchaser's*
1778 *ownership of that watercraft.* [35 ILCS 120/2-51(f)]

1779
1780 2) Repair and replacement parts for watercraft. *Notwithstanding any other*
1781 *provision of law to the contrary, property purchased on or after January*
1782 *1, 2014 for the purpose of being attached to watercraft as a part thereof*
1783 *qualifies as rolling stock moving in interstate commerce only if the*
1784 *watercraft to which it will be attached qualifies as rolling stock moving in*
1785 *interstate commerce under the test set forth in subsection (g)(1),*
1786 *regardless of when the watercraft was purchased. Persons who*
1787 *purchased watercraft prior to January 1, 2014 shall make an election to*
1788 *use either the trips or mileage method and document that election in their*
1789 *books and records for the purpose of determining whether property*
1790 *purchased on or after January 1, 2014 for the purpose of being attached*
1791 *to watercraft as a part thereof qualifies as rolling stock moving in*
1792 *interstate commerce under subsection (g)(1).* [35 ILCS 120/2-51(e)]

1793 Repair and replacement parts purchased for the purpose of being attached
1794 to a watercraft as a part thereof qualify for the rolling stock exemption if,
1795 at the time of purchase of the repair or replacement parts and for each of
1796 the corresponding watercraft's consecutive 12-month periods thereafter
1797 (i.e., the parts follow the 12-month periods for the rolling stock that they
1798 become a part of), the watercraft to which the parts will be attached meets
1799 the requirements of subsection (g)(1) and the purchaser provides a
1800 certification to that effect as required in subsection (g)(6), regardless of
1801 when the watercraft itself was purchased. For more detail on the

- 1802 application of 12-month periods for repair and replacement parts, see
1803 subsection (g)(4) incorporating the provision of subsection (d)(2)(E)(iii).
1804
- 1805 3) Basic guidelines on the trips or miles (or nautical miles or trip hours) that
1806 may and may not be used to claim the rolling stock exemption for
1807 watercraft.
1808
- 1809 A) For interstate trips or interstate miles (or nautical miles or trip
1810 hours) to qualify, the interstate trips or miles (or nautical miles or
1811 trip hours) must be for hire. However, the total amount of trips
1812 taken or miles (or nautical miles or trip hours) traveled by
1813 watercraft within any 12-month period includes trips or miles (or
1814 nautical miles or trip hours) for hire and those not for hire. An
1815 example of a not for hire trip or not for hire mileage (or nautical
1816 miles or trip hours) is when a business uses its watercraft to
1817 transport its own merchandise.
1818
- 1819 B) Any use of watercraft in a movement from one location to another,
1820 including but not limited to mileage (or nautical miles or trip
1821 hours) incurred by watercraft returning from a delivery without a
1822 load or passengers, shall be counted as a trip or mileage (or
1823 nautical miles or trip hours).
1824
- 1825 C) However, the movement of watercraft in relation to the
1826 maintenance or repair of that watercraft shall not count as a trip or
1827 mileage (or nautical miles or trip hours).
1828
- 1829 D) Any mileage (or nautical miles or trip hours) shown for watercraft
1830 that is undocumented as a trip or trips shall be counted as part of
1831 the total trips or mileage (or nautical miles or trip hours) taken by
1832 that watercraft. If the trips method has been chosen for that
1833 watercraft, the Department shall use its best judgment and
1834 information to determine the number of trips represented by such
1835 mileage (or nautical miles or trip hours).
1836
- 1837 E) A movement whereby watercraft is returning empty from a trip for
1838 hire shall be counted as a trip or mileage (or nautical miles or trip
1839 hours) for hire. A movement whereby watercraft is moving to a
1840 location where property or passengers are being loaded for a trip
1841 for hire shall be counted as a trip or mileage (or nautical miles or
1842 trip hours) for hire.
1843

1844 4) Twelve-month periods for watercraft (and repair and replacement parts for
1845 watercraft). The guidelines provided in subsection (d)(2)(E) apply to
1846 watercraft the same as if set forth here, except that the limitation in that
1847 subsection to purchases made before August 24, 2017, does not apply and
1848 references to motor vehicles and trailers mean watercraft.

1849
1850 5) Purchases by lessors of watercraft under a lease for one year or longer.
1851 *When a watercraft is purchased by a lessor, under a lease for one year or*
1852 *longer, executed or in effect at the time of purchase to an interstate carrier*
1853 *for hire, who did not pay the tax imposed by this Act to the retailer, such*
1854 *lessor (by the last day of the month following the calendar month in which*
1855 *such property reverts to the use of such lessor) shall file a return with the*
1856 *Department and pay the tax upon the fair market value of such property*
1857 *on the date of such reversion. However, in determining the fair market*
1858 *value at the time of reversion, the fair market value of such property shall*
1859 *not exceed the original purchase price of the property that was paid by the*
1860 *lessor at the time of purchase. [35 ILCS 105/10] When the watercraft is*
1861 *no longer used in a manner that qualifies for the rolling stock exemption*
1862 *as provided in this subsection (g)(5), the lessor shall file a return with the*
1863 *Department and pay the tax to the Department by the last day of the month*
1864 *following the calendar month in which the property is no longer subject to*
1865 *a qualifying lease.*

1866
1867 EXAMPLE: A watercraft was purchased for lease to an interstate carrier
1868 for hire on August 15, 2020 and was titled and registered on that date. The
1869 lease to the interstate carrier for hire was executed or in effect at the time
1870 of purchase. The appropriate return was timely filed claiming the rolling
1871 stock exemption. The qualifying lease ended on November 15, 2021, and
1872 the watercraft was no longer used in a qualifying manner. At the time the
1873 qualifying lease ends and the watercraft reverts to the lessor, the lessor
1874 owes Use Tax on the fair market value of the watercraft on the date it
1875 reverts to the lessor. The return and the tax are due by the last day of the
1876 month following the month in which the watercraft reverts to the lessor.
1877 The period in which the Department would be able to issue a Notice of
1878 Tax Liability for Use Tax due regarding that watercraft would expire on
1879 December 31, 2024.

1880
1881 6) Certification of exemption for watercraft. To properly claim the rolling
1882 stock exemption, the purchaser must give the seller a certification that the
1883 purchaser is an interstate carrier for hire, and that the purchaser is
1884 purchasing the watercraft, or repair or replacement parts for a watercraft,
1885 for use as rolling stock moving in interstate commerce.

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- A) If the purchaser is a lessor, the purchaser must give the seller of the property a certification to that effect, identifying the lessee that will utilize the property.
 - B) If the purchaser of a watercraft or repair or replacement parts for a watercraft is an interstate carrier for hire, the purchaser must include documentation that shows that that the purchaser is authorized by an agency of the federal government to carry persons or property for hire in interstate commerce.
 - C) If the purchaser is an owner, lessor, or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property. For example, the purchaser may have documentation from the United States Coast Guard's National Vessel Documentation Center that authorizes the certificate holder to carry persons or property interstate for hire as evidence the carrier is an authorized carrier for hire in interstate commerce.
 - D) The giving of a certification does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases where the purchaser is not the carrier, the carrier's records or activities), the Department finds that the certification was not true as to some fact that shows the purchase was taxable and should not have been certified as being tax exempt.
 - E) In cases where the interstate carrier for hire is not required by law to have a federal government regulatory agency authorizing it to carry persons or property for hire in interstate commerce, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.
- 7) Examples applying the limitations period for issuing a Notice of Tax Liability for watercraft. The Examples in subsection (d)(2)(G) apply to watercraft the same as if set forth here, except that references to motor vehicles mean watercraft.
- 8) Examples of application of the greater than 50% trips test for watercraft:

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EXAMPLE 1 – (Watercraft – Qualifying): An interstate carrier uses a watercraft to carry property for hire from Moline, Illinois to Quincy, Illinois where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate shipment). The watercraft continues to St. Louis, Missouri and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The watercraft then continues to Memphis, Tennessee and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The watercraft then returns empty to Moline, Illinois from the delivery in Memphis, Tennessee (qualifies as interstate trip because returning from qualifying trip (see subsection (d)(2)(D)(v))). The watercraft is considered to have made a total of four trips (one trip to Quincy, Illinois, one trip to St. Louis, Missouri, one trip to Memphis, Tennessee, and a return trip to Moline, Illinois). If these were all the trips the watercraft made within the first 12-month period (or were all the trips that watercraft made in a subsequent 12-month period), it would qualify for the test set forth in subsection (g)(1) for that 12-month period because it made four qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair or replacement parts purchased for the watercraft during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – (Watercraft – Non-Qualifying): An interstate carrier uses a watercraft to carry property for hire from Chicago, Illinois to Peoria, Illinois where that property is delivered for use by the recipient (does not qualify as interstate trip because it is strictly intrastate transport). The watercraft then continues to St. Louis, Missouri and picks up property for use by that carrier's business (does not qualify because it must be for hire). The watercraft then returns to Chicago, Illinois (does not qualify because returning from a non-qualifying trip out of state). The watercraft is considered to have made a total of three trips (one to Peoria, Illinois, one to St. Louis, Missouri, and a return trip to Chicago, Illinois). If these were all the trips that the watercraft made within the first 12-month period (or were all the trips that watercraft made in a subsequent 12-month period), it would not qualify for the test set forth in subsection (g)(1) for that 12-month period because 0% of these trips qualified as interstate trips for hire.

1972 9) Examples of application of the greater than 50% mileage (or nautical
 1973 miles or trip hours) test for watercraft:
 1974
 1975 EXAMPLE 1 – (Watercraft – Qualifying): An interstate carrier uses a
 1976 watercraft to carry property for hire from Chicago, Illinois to Peoria,
 1977 Illinois (144 nautical mile movement) where part of the property is
 1978 delivered. As documented on the bill of lading provided to the carrier, that
 1979 property will be delivered, as part of the continuation of the shipment, by
 1980 another carrier to a location outside of Illinois (qualifies as interstate miles
 1981 because documentation of interstate shipment). The watercraft continues
 1982 to St. Louis, Missouri (148 nautical mile movement) and delivers more of
 1983 the property in that city (qualifies as interstate trip because transported out
 1984 of state). The watercraft then continues to Cape Girardeau, Missouri (102
 1985 nautical mile movement) and delivers the remainder of the property in that
 1986 city (qualifies as interstate trip because shipment originated in Illinois).
 1987 The watercraft then returns empty to Chicago, Illinois (394 nautical mile
 1988 movement) from the delivery in Cape Girardeau, Missouri (qualifies as
 1989 interstate trip because returning from qualifying trip (see subsection
 1990 (d)(2)(D)(v))). The watercraft is considered to have traveled a total of 788
 1991 qualifying nautical miles. If these were all the miles that the watercraft
 1992 traveled within the first 12-month period (or were all the miles that
 1993 watercraft traveled in a subsequent 12-month period), it would qualify for
 1994 the test set forth in subsection (g)(1) for that 12-month period because
 1995 100% of its miles were for qualifying interstate movements for hire. Any
 1996 repair or replacement parts purchased for the watercraft would also have
 1997 qualified for the exemption.
 1998

1999 EXAMPLE 2 – (Watercraft – Non-Qualifying): If the watercraft
 2000 described above in Example 4 had traveled instead a total of 2,788
 2001 nautical miles during that 12-month period with 2,000 of those nautical
 2002 miles not being documented as qualifying nautical miles, the watercraft
 2003 would not have qualified for the exemption because it only had 788
 2004 qualifying nautical miles out of 2,788 nautical miles for a 28.26%
 2005 qualifying percentage. Any repair or replacement parts purchased for the
 2006 watercraft would not have qualified for the exemption.
 2007

2008 (Source: Amended at 50 Ill. Reg. _____, effective _____)
 2009

2010 SUBPART F: INTERSTATE COMMERCE

2011
 2012 **Section 130.605 Sales of Property Originating in Illinois; Questions of Interstate**
 2013 **Commerce**
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- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.
 - 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
 - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
 - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.

 - b) There are three exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or the purchaser's~~his~~ representative receives physical possession of the property in Illinois.
 - 1) Except as otherwise provided in subsection (b)(1)(C), the tax is not imposed upon the sale of a motor vehicle in this State *even though the motor vehicle is delivered in this State*, if all of the following conditions are met: *the motor vehicle is sold to a nonresident; the motor vehicle is not to be titled in this State; and ~~either~~ either a drive-away permit is issued for purposes of transporting ~~for purposes of transporting~~ the motor vehicle to a destination outside of Illinois ~~to a destination outside of Illinois is issued to the motor vehicle~~ as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or the nonresident purchaser has non-Illinois ~~non-Illinois~~ vehicle registration plates to transfer to the motor vehicle upon transporting the vehicle outside of Illinois ~~transporting the vehicle outside of Illinois~~. Except as otherwise provided in subsection (b)(1)(A)(iv), the ~~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. [35 ILCS 120/2-5(25)]
 - A) Documentation of nonresidency. The exemption under subsection (b)(1) is available only to nonresidents. A vehicle purchased by an Illinois resident is not eligible for the exemption (even if the purchaser is only a part-time Illinois resident or has dual residency*

2058 in both Illinois and another state, and, in the case of more than one
2059 purchaser, even if only one of the purchasers is an Illinois
2060 resident). ~~If Effective July 1, 2008, if~~ a retailer claims the
2061 exemption under subsection (b)(1), the retailer must keep evidence
2062 that the purchaser is not a resident of Illinois, along with the
2063 records related to the sale (e.g., in the deal jacket).

2064
2065 i) When the purchaser is a natural person, the best evidence
2066 of nonresidence is a non-Illinois driver's license. Retention
2067 of a copy of the purchaser's permanent non-Illinois driver's
2068 license in the records related to the sale is prima facie
2069 evidence that the purchaser is a nonresident eligible for the
2070 exemption under this subsection (b)(1). In addition, the
2071 retailer must also obtain and keep in the records related to
2072 the sale a certification from the purchaser in substantially
2073 the following form:

2074
2075 "I, (purchaser), under applicable penalties, including
2076 penalties for perjury and fraud, state that I am not an
2077 Illinois resident. I understand that if I am a resident of
2078 Illinois or use the motor vehicle in Illinois for more than 30
2079 days in a calendar year, I am also liable for tax, penalty and
2080 interest on this purchase."

2081
2082 ii) When the purchaser is a natural person, failure to keep a
2083 copy of the purchaser's non-Illinois driver's license or the
2084 presence of a copy of the purchaser's Illinois driver's
2085 license in the records related to the sale creates a rebuttable
2086 presumption that the purchaser is an Illinois resident
2087 ineligible for the exemption under this subsection (b)(1).
2088 To rebut this presumption, the retailer must keep evidence
2089 of the nonresidency of the purchaser in the records related
2090 to the sale, such as a voter registration card listing a non-
2091 Illinois address, a copy of a purchase contract or lease
2092 agreement for a new residence outside of Illinois, a copy of
2093 a tax return from another state that declares residency in
2094 that other state, a credit report listing the primary address as
2095 out-of-state, property tax records claiming a homestead
2096 exemption for an out-of-state residence, or any other
2097 documentation that clearly shows that the purchaser is not
2098 an Illinois resident. In addition, the retailer must also
2099 obtain and keep in the records related to the sale a

2100 certification from the purchaser in substantially the
2101 following form:

2102
2103 "I, (purchaser), under applicable penalties, including
2104 penalties for perjury and fraud, state that I am not an
2105 Illinois resident. I understand that if I am a resident of
2106 Illinois or use the motor vehicle in Illinois for more than 30
2107 days in a calendar year, I am also liable for tax, penalty and
2108 interest on this purchase."

2109
2110 iii) When the purchaser is not a natural person (e.g.,
2111 corporation, partnership, limited liability company, trust,
2112 etc.), then the purchaser shall be deemed a resident of the
2113 state or foreign country under whose laws the purchaser
2114 was incorporated, created or organized, as well as the state
2115 or foreign country of the purchaser's commercial domicile,
2116 if different. When the purchaser is a grantor trust or other
2117 entity that claims it has no state or foreign country of
2118 incorporation, creation, organization and commercial
2119 domicile, then the purchaser's state or foreign country of
2120 residence shall be deemed to be the place of residency of
2121 the principal user of the vehicle and a copy of the user's
2122 non-Illinois driver's license or other evidence of non-
2123 Illinois residency must be kept by the retailer in the records
2124 related to the sale. When the purchaser is not a natural
2125 person, the retailer must obtain and keep in the records
2126 related to the sale a certificate from the purchaser that states
2127 substantially the following:

2128
2129 "(Purchaser) states, under applicable penalties, including
2130 penalties for perjury and fraud, that it is a (corporation,
2131 partnership, LLC, trust, etc.), incorporated, organized or
2132 created under the laws of (state or foreign country) and has
2133 its commercial domicile in (state or foreign country), or
2134 alternatively that it has no state or foreign country of
2135 incorporation, creation, organization and commercial
2136 domicile, but the principal user's state or foreign country of
2137 residence is (state). The undersigned has authority to sign
2138 this certification on behalf of the purchaser, and
2139 understands that in doing so, if the purchaser is a resident
2140 of Illinois or uses the motor vehicle in Illinois for more
2141 than 30 days in a calendar year, it will be liable for tax,
2142 penalty and interest on this purchase."

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iv) Effective June 16, 2025, there is a rebuttable presumption that the exemption under subsection (b)(1), does not apply if the purchaser is a limited liability company and a member of the limited liability company is a resident of Illinois. This presumption may be rebutted by other evidence, such as evidence the motor vehicle is insured at a garaging or storage address outside Illinois or other evidence of the physical address at which the motor vehicle will be permanently stored or garaged outside Illinois. [35 ILCS 120/2-5(25-6)]

v) If the retailer meets the requirements of subsection (b)(1)(A)(i), (ii), ~~(iii)~~, or (iv) to document the exemption, then, absent fraud, the Department shall pursue any claim that the exemption does not apply solely against the vehicle purchaser. If, however, the retailer does not meet the requirements of subsection (b)(1)(A)(i), (ii), ~~(iii)~~, or (iv) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.

B) When the motor vehicle is purchased for lease and delivery to a lessee, the provisions of subsection (b)(1) shall apply to the lessee as if the lessee is the purchaser of the motor vehicle.

C) The exemption under this subsection (b)(1) 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 the Retailers' Occupation Tax 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 the Retailers' Occupation Tax Act. (See 35 ILCS 120/2-5(25-5).)

D) For purposes of this subsection (b)(1), the term "motor vehicle" does not include (list not exhaustive):

i) "watercraft" or "personal watercraft" as defined in the Boat Registration and Safety Act [625 ILCS 45] or any boat

2186 equipped with an inboard motor, regardless of whether the
2187 watercraft, personal watercraft or boat is sold individually
2188 or included with the sale of a trailer. If the watercraft,
2189 personal watercraft or boat is included with the sale of a
2190 trailer, the trailer may be an exempt "motor vehicle" under
2191 this subsection (b)(1), but the watercraft, personal
2192 watercraft or boat is not an exempt motor vehicle and tax is
2193 still owed on it. If the two items are sold together for one
2194 non-itemized price, and the trailer is exempt under this
2195 subsection (b)(1), only the gross receipts representing the
2196 selling price of the trailer are exempt. Please note that
2197 Section 130.540 requires separate transaction returns to be
2198 filed with the Department for each item of property sold by
2199 the retailer that is required to be titled or registered with an
2200 agency of Illinois government;

- 2201
- 2202 ii) "all-terrain vehicles" as defined in Section 1-101.8 of the
2203 Illinois Vehicle Code;
 - 2204
 - 2205 iii) "motorcycles", as defined in Section 1-147 of the Illinois
2206 Vehicle Code, that are not eligible for vehicle registration
2207 because they are not properly manufactured or equipped for
2208 general highway use;
 - 2209
 - 2210 iv) "motor driven cycles", as defined in Section 1-145.001 of
2211 the Illinois Vehicle Code, that are not eligible for vehicle
2212 registration because they are not properly manufactured or
2213 equipped for general highway use;
 - 2214
 - 2215 v) "off-highway motorcycles" as defined in Section 1-153.1 of
2216 the Illinois Vehicle Code; or
 - 2217
 - 2218 vi) "snowmobiles" as defined in Section 1-2.15 of the
2219 Snowmobile Registration and Safety Act [625 ILCS 40/1-
2220 2.15].

2221

2222 2) *Beginning July 1, 2007, the Retailers' Occupation Tax is not imposed on*
2223 *the sale of an aircraft, as that term is defined in Section 3 of the Illinois*
2224 *Aeronautics Act [620 ILCS 5/3], if all of the following three conditions are*
2225 *met:*

- 2226
- 2227 A) *the aircraft leaves this State within 15 days after the later of either*
2228 *the issuance of the final billing for the sale of the aircraft, or the*

- 2229 *authorized approval for return to service, completion of the*
2230 *maintenance record entry, and completion of the test flight and*
2231 *ground test for inspection, as required by 14 CFR 91.407;*
2232
2233 B) *the aircraft is not based or registered in this State after the sale of*
2234 *the aircraft; and*
2235
2236 C) *the seller retains in his or her books and records and provides to*
2237 *the Department a signed and dated certification from the*
2238 *purchaser, on a form prescribed by the Department, certifying that*
2239 *the requirements of this subsection (b)(2) are met. The certificate*
2240 *must also include the name and address of the purchaser, the*
2241 *address of the location where the aircraft is to be titled or*
2242 *registered, the address of the primary physical location of the*
2243 *aircraft, and other information that the Department may*
2244 *reasonably require. [35 ILCS 120/2-5(25-7)] (See Section*
2245 *130.120.)*
2246
2247 D) For purposes of this subsection (b)(2):
2248
2249 i) *"Based in this State" means hangared, stored, or otherwise*
2250 *used, excluding post-sale customizations, for 10 or more*
2251 *days in each 12-month period immediately following the*
2252 *date of the sale of the aircraft.*
2253
2254 ii) *"Registered in this State" means an aircraft registered with*
2255 *the Department of Transportation, Aeronautics Division, or*
2256 *titled or registered with the Federal Aviation*
2257 *Administration to an address located in this State. [35*
2258 *ILCS 120/2-5(25-7)]*
2259
2260 3) The seller does not incur Retailers' Occupation Tax liability with respect
2261 *to the proceeds from the sale of an item of tangible personal property to a*
2262 *common carrier by rail or motor that receives physical possession of*
2263 *property in Illinois and that transports the property, or shares with*
2264 *another common carrier in transporting the property, out of Illinois on a*
2265 *standard uniform bill of lading showing the seller of the property as the*
2266 *shipper or consignor of the property to a destination outside Illinois, for*
2267 *use outside Illinois. [35 ILCS 120/2-5(17)] The exception for sales to*
2268 *common carriers by rail or motor, which is described in subsection (b)(3),*
2269 *is also applicable to local occupation taxes administered by the*
2270 *Department.*
2271

- 2272 c) The tax does not extend to gross receipts from sales in which the seller is
2273 obligated, under the terms of his or her agreement with the purchaser, to make
2274 physical delivery of the goods from a point in this State to a point outside this
2275 State, not to be returned to a point within this State, provided that the delivery is
2276 actually made.
2277
- 2278 d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier
2279 (when the carrier is not also the purchaser) or by mail, under the terms of his or
2280 her agreement with the purchaser, delivers the goods from a point in this State to a
2281 point outside this State not to be returned to a point within this State. The fact
2282 that the purchaser actually arranges for the common carrier or pays the carrier that
2283 effects delivery does not destroy the exemption. However, it is critical that the
2284 seller is shown as the consignor or shipper on the bill of lading. If the purchaser
2285 is shown as either the consignor or the shipper, the exemption will not apply.
2286
- 2287 e) Sales of the type described in subsections (c) and (d) are deemed to be within the
2288 protection of the Commerce Clause of the Constitution of the United States.
2289
- 2290 f) To establish that the gross receipts from any given sale are exempt because the
2291 tangible personal property is delivered by the seller from a point within this State
2292 to a point outside this State under the terms of an agreement with the purchaser,
2293 the seller will be required to retain in his or her records, to support deductions
2294 taken on his or her tax returns proof that satisfies the Department that there was
2295 an agreement and a bona fide delivery outside this State of the property that is
2296 sold. The most acceptable proof of this fact will be:
2297
- 2298 1) ~~if~~ shipped by common carrier, a waybill or bill of lading requiring
2299 delivery outside this State;
 - 2300
 - 2301 2) if sent by mail, an authorized receipt from the United States Post Office
2302 department for articles sent by registered mail, parcel post, ordinary mail
2303 or otherwise, showing the name of the addressee, the point outside Illinois
2304 to which the property is mailed and the date of the mailing; if the receipt
2305 does not comply with these requirements, other supporting evidence will
2306 be required;
2307
 - 2308 3) if sent by seller's own transportation equipment, a trip sheet signed by the
2309 person making delivery for the seller and showing the name, address and
2310 signature of the person to whom the goods were delivered outside this
2311 State; or, in lieu thereof, an affidavit signed by the purchaser or his or her
2312 representative, showing the name and address of the seller, the name and
2313 address of the purchaser and the time and place of the delivery outside

2314 Illinois by the seller; together with other supporting data as required by
2315 Section 130.810 of this Part and by Section 7 of the Act.

2316
2317 g) Retailers who ship property to freight forwarders who take possession of the
2318 property in Illinois and ship the property to foreign countries, not to be returned to
2319 the United States, are making exempt sales in foreign commerce and do not incur
2320 Retailers' Occupation Tax liability on the gross receipts from those sales.
2321 However, there is no exemption for property delivered in Illinois to foreign
2322 vessels. If foreign vessels purchase items of tangible personal property from
2323 Illinois retailers and have those items delivered to the vessels in an Illinois port,
2324 the sale is made in Illinois, the purchaser takes possession of the items in Illinois,
2325 and therefore, the sale is taxable.

2326
2327 (Source: Amended at 50 Ill. Reg. _____, effective _____)
2328

2329 **SUBPART G: CERTIFICATE OF REGISTRATION**

2330
2331 **Section 130.701 General Information on Obtaining a Certificate of Registration**

- 2332
- 2333 a) It shall be unlawful for any person to engage in the business of selling tangible
2334 personal property at retail in this State without a certificate of registration from
2335 the Department.
2336
 - 2337 b) Every person who engages in the business of selling tangible personal property at
2338 retail in this State must procure a certificate of registration (and sub-certificate of
2339 registration when required) from the Department.
2340
 - 2341 c) For information with respect to penalties for violating this requirement, see
2342 Subpart I.
2343
 - 2344 d) The application to register must be made on a form prescribed and furnished by
2345 the Department for that purpose. Upon request therefor, made to the Department
2346 of Revenue, an application form will be furnished. Each application shall be
2347 signed and verified. The application shall contain an acceptance of responsibility
2348 by the person or persons who will be responsible for filing returns and payment of
2349 the taxes due under the Act. *If the applicant will sell tangible personal property*
2350 *at retail through vending machines, his application to register shall indicate the*
2351 *number of vending machines to be so operated.* [35 ILCS 120/2a] Applications
2352 to register may be submitted electronically on the Department's website at
2353 <https://tax.illinois.gov/> ~~www.tax.illinois.gov~~.
2354
 - 2355 e) Special Requirements Pertaining to Vending Machines
2356 *If the applicant will sell tangible personal property at retail through vending*

2357 *machines, the Department shall furnish the applicant with a sub-certificate of*
2358 *registration for each such vending machine, and the applicant shall display the*
2359 *appropriate sub-certificate of registration on each such vending machine by*
2360 *attaching the sub-certificate of registration to a conspicuous part of such vending*
2361 *machine. If a person who is registered to sell tangible personal property at retail*
2362 *through vending machines adds an additional vending machine or additional*
2363 *vending machines to the number of vending machines the applicant uses in the*
2364 *applicant's business of selling tangible personal property at retail, the applicant*
2365 *shall notify the Department, on a form prescribed by the Department, to request*
2366 *an additional sub-certificate or additional sub-certificates of registration, as*
2367 *applicable. With each such request, the applicant shall report the number of sub-*
2368 *certificates of registration the applicant is requesting as well as the total number*
2369 *of vending machines from which the applicant makes retail sales. [35 ILCS*
2370 *120/2a]*

2371
2372 f) Posting Bond or Other Security

- 2373
2374 1) At the time of filing their application, the Department may require an
2375 applicant for a certificate of registration~~Every applicant for a certificate of~~
2376 ~~registration shall, within 30 days after the applicant commences to engage~~
2377 ~~in the business of selling tangible personal property at retail, to~~ furnish a
2378 bond from a surety company authorized to do business in the State of
2379 Illinois, or a bond signed by 2 personal sureties who have filed, with the
2380 Department, sworn statements disclosing net assets equal to at least 3
2381 times the amount of the bond to be required of the applicant, or a bond
2382 secured by an assignment of a bank account or certificate of deposit,
2383 stocks or bonds, conditioned upon the applicant paying to the State of
2384 Illinois all moneys becoming due under the Retailers' Occupation Tax Act
2385 and under any other State tax law or municipal or county tax ordinance or
2386 resolution under which the certificate of registration that is issued to the
2387 applicant under the Retailers' Occupation Tax Act will permit the
2388 applicant to engage in business without registering separately under such
2389 other law, ordinance or resolution.
- 2390
2391 2) In making a determination as to whether to require a bond or other
2392 security, the Department shall take into consideration whether the owner,
2393 any partner, any manager or member of a limited liability company, or a
2394 corporate officer of the applicant is or has been the owner, a partner, a
2395 manager or member of a limited liability company, or a corporate officer
2396 of another retailer (i) that is in default for moneys due under this Act or
2397 any other tax or fee Act administered by the Department or (ii) whose
2398 certificate of registration has been revoked within the previous 5 years
2399 under this Act or any other tax or fee Act administered by the Department.

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3) Maximum Amount of Bond or Other Security

- A) *If a bond or other security is required, the Department shall fix the amount of the bond or other security in each case, taking into consideration the amount of money expected to become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The amount of security required by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax liability, or \$50,000.00, whichever amount is lower. [35 ILCS 120/2a]*~~The Department shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The security required by the Department shall be of an amount that, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax~~

2443 ~~liability, or \$50,000, whichever amount is lower.~~

2444
2445 B) No certificate of registration under the Retailers' Occupation Tax
2446 Act shall be issued by the Department until the applicant provides
2447 the Department with satisfactory security, if required, as herein
2448 provided for in this subsection (f).

2449
2450 43) Exception from Security Requirements for Prior Continuous Compliance
2451 Taxpayers

2452 Any taxpayer who has, as verified by the Department, faithfully and
2453 continuously complied with the condition of the taxpayer's bond or other
2454 security under the provisions of the Act for a period of 3 consecutive years
2455 shall be considered to be a Prior Continuous Compliance taxpayer. Every
2456 Prior Continuous Compliance taxpayer shall be exempt from all
2457 requirements under the Act concerning the furnishing of a bond or other
2458 security as a condition precedent to the taxpayer being authorized to
2459 engage in the business of selling tangible personal property at retail in this
2460 State. This exemption shall continue for each taxpayer until the taxpayer
2461 may be determined by the Department to be delinquent in the filing of any
2462 returns, or is determined by the Department (either through the
2463 Department's issuance of a final assessment that has become final under
2464 the Act, or by the taxpayer's filing of a return that admits tax that is not
2465 paid to be due) to be delinquent or deficient in the paying of any tax under
2466 the Retailers' Occupation Tax Act or under any other State tax law or
2467 municipal or county tax ordinance or resolution under which the certificate
2468 of registration that is issued to the registrant under the Retailers'
2469 Occupation Tax Act will permit the registrant to engage in business
2470 without registering separately under such other law, ordinance or
2471 resolution, at which time that taxpayer shall become subject to all the
2472 financial responsibility requirements of the Act and, as a condition of
2473 being allowed to continue to engage in the business of selling tangible
2474 personal property at retail, ~~may shall~~ be required to post bond or other
2475 acceptable security with the Department covering liability that the
2476 taxpayer may thereafter incur. Any taxpayer who fails to pay an admitted
2477 or established liability under the Act may also be required to post bond or
2478 other acceptable security with this Department guaranteeing the payment
2479 of the admitted or established liability.

2480
2481 g) Issuance of Certificate of Registration
2482 Upon receipt of the application for certificate of registration in proper form, and
2483 upon approval by the Department of the bond or other security furnished by the
2484 applicant, if required, the Department shall issue to the applicant, in the manner
2485 and form determined by the Department, a certificate of registration that shall

2486 permit the person to whom it is issued to engage in the business of selling tangible
 2487 personal property at retail in this State. *The Department may deny a certificate of*
 2488 *registration to any applicant if a person who is named as the owner, a partner, a*
 2489 *manager or member of a limited liability company, or a corporate officer of the*
 2490 *applicant on the application for the certificate of registration is or has been*
 2491 *named as the owner, a partner, a manager or member of a limited liability*
 2492 *company, or a corporate officer on the application for the certificate of*
 2493 *registration of another retailer that (i) is in default for moneys due under ~~the~~^{this}*
 2494 *Act or any other tax or fee Act administered by the Department or (ii) fails to file*
 2495 *any return, on or before the due date prescribed for filing that return (including*
 2496 *any extensions of time granted by the Department), that the retailer is required to*
 2497 *file under the Act or any other tax or fee Act administered by the Department.*

2498 *For purposes of this paragraph only, in determining whether a person is in*
 2499 *default for moneys due, the Department shall include only amounts established as*
 2500 *a final liability within the 23 years prior to the date of the Department's notice of*
 2501 *denial of a certificate of registration. [35 ILCS 120/2a]*
 2502

2503 h) *No certificate of registration issued prior to July 1, 2017 to a taxpayer who files*
 2504 *returns required by ~~the~~^{the} Act on a monthly basis, or renewed prior to July 1,*
 2505 *2017 by a taxpayer who files returns required by the Act on a monthly basis, shall*
 2506 *be valid after the expiration of 5 years from the date of its issuance or last*
 2507 *renewal. No certificate of registration issued on or after July 1, 2017 to a*
 2508 *taxpayer who files returns required by the Act on a monthly basis or renewed on*
 2509 *or after July 1, 2017 by a taxpayer who files returns required by the Act on a*
 2510 *monthly basis shall be valid after the expiration of 1 year from the date of its*
 2511 *issuance or last renewal. The expiration date of a sub-certificate of registration*
 2512 *shall be that of the certificate of registration to which the sub-certificate relates.*
 2513 *Prior to July 1, 2017, a certificate of registration shall be automatically renewed,*
 2514 *subject to revocation as provided by the Act, for an additional 5 years from the*
 2515 *date of its expiration unless otherwise notified by the Department. On and after*
 2516 *July 1, 2017, a certificate of registration shall automatically be renewed, subject*
 2517 *to revocation as provided by the Act, for an additional 1 year from the date of its*
 2518 *expiration unless otherwise notified by the Department as provided by subsection*
 2519 *(i).~~(i)~~.*

2520
 2521 i) *When a taxpayer to whom a certificate of registration is issued under the Act is in*
 2522 *default to the State of Illinois for delinquent returns or for moneys due under the*
 2523 *Act or any other State tax law or municipal or county ordinance administered or*
 2524 *enforced by the Department, the Department shall, not less than 60 days before*
 2525 *the expiration of the certificate of registration, give notice to the taxpayer to*
 2526 *whom the certificate was issued of the account period of the delinquent returns,*
 2527 *the amount of tax, penalty and interest due and owing from the taxpayer, and that*
 2528 *the certificate of registration shall not be automatically renewed upon its*

2529 expiration date unless the taxpayer, on or before the date of expiration, has filed
2530 and paid the delinquent returns or paid the defaulted amount in full. Upon
2531 expiration of a certificate of registration (including all sub-certificates of
2532 registration, if any, issued under the certificate), the Department may post notice
2533 at the place or places of business, at the front entrance and on the front windows,
2534 to which the expired certificate applied, stating that the certificate of registration
2535 has expired and that it is unlawful for any person to engage in the business of
2536 selling tangible personal property at retail in this State without an active
2537 certificate of registration issued by the Department (see Illustration D).
2538

2539 j) *The Department may, in its discretion, approve renewal by an applicant who is in*
2540 *default if, at the time of application for renewal, the applicant files all of the*
2541 *delinquent returns or pays to the Department the percentage of the defaulted*
2542 *amount as may be determined by the Department and agrees in writing to waive*
2543 *all limitations upon the Department for collection of the remaining defaulted*
2544 *amount to the Department over a period not to exceed 5 years from the date of*
2545 *renewal of the certificate; however, no renewal application submitted by an*
2546 *applicant who is in default shall be approved if the immediately preceding*
2547 *renewal by the applicant was conditioned upon the installment payment*
2548 *agreement described in this Section. The payment agreement shall be in addition*
2549 *to, and not in lieu of, the security that may be required by this Section of a*
2550 *taxpayer who is no longer considered a continuous compliance taxpayer. The*
2551 *execution of the payment agreement as provided in the Act shall not toll the*
2552 *accrual of interest at the statutory rate. (Section 2a of the Act)*
2553

2554 (Source: Amended at 50 Ill. Reg. _____, effective _____)
2555

2556 **Section 130.725 Display**

2557
2558 The taxpayer must conspicuously display their~~his~~ certificate or sub-certificate of registration, in
2559 the manner and form as provided in this Section, in the place of business to which it applies.
2560 ~~Wherever possible, the taxpayer must display his certificate or sub-certificate of registration in~~
2561 ~~the place of business to which it applies by affixing such certificate or sub-certificate to the glass~~
2562 ~~part of a window or door which faces or opens upon a public street or highway, or in some~~
2563 ~~similar position. If no window or door faces or opens upon a public street or highway, the~~
2564 ~~certificate or sub-certificate must be posted in some conspicuous place which is as near as is~~
2565 ~~practicable to the entrance of the taxpayer's establishment, and such certificate or sub-certificate~~
2566 ~~must be exposed to public view.~~
2567

2568 a) Retailers with physical presence in this State must display certificates of
2569 registration in one of the following ways:
2570

- 2571 1) wherever possible, display of the paper certificate in a conspicuous
2572 location within the place of business as indicated by the address on the
2573 certificate (e.g., affixing such certificate or sub-certificate to the glass part
2574 of a window or door which faces or opens upon a public street or highway,
2575 on a wall behind the cash register or customer service desk, or in some
2576 similar position);
2577
2578 2) display of the paper certificate in digital format, including but not limited
2579 to on a television, monitor, or other digital screen within the premises of
2580 the address listed;
2581
2582 3) display of a QR code or other link to an electronic copy of the certificate;
2583 or
2584
2585 4) any other method previously approved by the Department.
2586

2587 If no window or door faces or opens upon a public street or highway, the
2588 certificate or sub-certificate must be posted in some conspicuous place that is as
2589 near as is practicable to the entrance of the taxpayer's establishment, and such
2590 certificate or sub-certificate must be exposed to public view.

2591
2592 b) Retailers without physical presence in this State must display certificates of
2593 registration in one of the following ways:

- 2594
2595 1) posting on the retailer's website, through a conspicuous link, tab, or
2596 webpage;
2597
2598 2) including the certificate, a web address where the certificate can be
2599 accessed, or a QR code linked to an electronic copy of the certificate with
2600 printed materials such as catalogs, advertisements, flyers, etc. used for
2601 solicitation in Illinois; or
2602
2603 3) any other method previously approved by the Department.
2604

2605 (Source: Amended at 50 Ill. Reg. _____, effective _____)

2606
2607 **SUBPART S: SPECIFIC APPLICATIONS**

2608
2609 **Section 130.1961 Sales of Building Materials to be Incorporated into Real Estate at a**
2610 **Quantum Computing Campus**

- 2611
2612 a) Each retailer who makes a qualified sale of building materials to be incorporated
2613 into real estate at a quantum computing campus certified by the Department of

2614 Commerce and Economic Opportunity ("DCEO") under Section 605-1115 of the
2615 Department of Commerce and Economic Opportunity Law of the Civil
2616 Administrative Code of Illinois (20 ILCS 605/605-1115) may deduct receipts from
2617 those sales when calculating the tax imposed by the Retailers' Occupation Tax
2618 Act ("ROTA"). [35 ILCS 120/2-29]

2619
2620 b) No retailer who is eligible for the deduction or credit for a given sale under
2621 Section 5k of the Act related to enterprise zones, Section 5l of the Act related to
2622 High Impact Businesses, Section 5m of the Act related to REV Illinois projects, or
2623 Section 5n of the Act related to MICRO facilities shall be eligible for the
2624 deduction or credit authorized under Section 2-29 of the ROTA for that same
2625 sale. [35 ILCS 120/2-29]

2626
2627 c) Building materials that are physically incorporated into the real estate of a
2628 quantum computing campus and thus qualify for the exemption include but are
2629 not limited to:

2630
2631 1) Common building materials such as lumber, bricks, cement, windows,
2632 doors, insulation, roofing materials, and sheet metal;

2633
2634 2) Plumbing systems and components such as bathtubs, lavatories, sinks,
2635 faucets, garbage disposals, water pumps, water heaters, water softeners,
2636 and water pipes;

2637
2638 3) Heating systems and components such as furnaces, ductwork, vents,
2639 stokers, boilers, heating pipes, and radiators;

2640
2641 4) Electrical systems and components such as wiring, outlets, and light
2642 fixtures that are physically incorporated into the real estate;

2643
2644 5) Central air conditioning systems, ventilation systems, and components that
2645 are physically incorporated into the real estate;

2646
2647 6) Built-in cabinets and other woodwork that are physically incorporated into
2648 the real estate;

2649
2650 7) Built-in appliances such as refrigerators, stoves, ovens, and trash
2651 compactors that are physically incorporated into the real estate; and

2652
2653 8) Floor coverings such as tile, linoleum, and carpeting that are glued or
2654 otherwise permanently affixed to the real estate by use of tacks, staples, or
2655 wood stripping filled with nails that protrude upward also known as
2656 tacking strips or tack-down strips.

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- d) Building materials that are not physically incorporated into the real estate of a qualified facility and thus do not qualify for the exemption include, but are not limited to:
 - 1) Tools, machinery, equipment, fuel, forms, and other items that may be used by a construction contractor at a qualified facility, but that are not physically incorporated into the real estate;
 - 2) Free-standing appliances such as stoves, ovens, refrigerators, washing machines, portable ventilation units, window air conditioning units, lamps, clothes washers, clothes dryers, trash compactors, and dishwashers that may be connected to and operate from a building's electrical or plumbing system but that do not become a component of those systems; and
 - 3) Floor coverings that are area rugs or that are attached to the structure using only two-sided tape.

- e) Certification of exemption from the DCEO.
 - 1) The DCEO may certify a taxpayer for an exemption from any State or local use tax or retailers' occupation tax on building materials that will be incorporated into real estate at a quantum computing campus. [20 ILCS 605/605-1115(b)(1)]
 - 2) Upon issuing certificates under Section 605-1115, the DCEO shall notify the Department of the certificates, and the Department shall issue and administer the exemptions listed in subsection (b) of Section 605-1115. [20 ILCS 605/605-1115(c)]

- f) Quantum Computing Campus Illinois Building Materials Exemption Certificate from the Department of Revenue.
 - 1) A taxpayer that is certified by the DCEO under Section 605-1115 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois shall submit a request to the Department for an initial or renewal Quantum Computing Campus Materials Exemption Certificate. Upon request from the certified taxpayer, the Department shall issue a Quantum Computing Campus Building Materials Exemption Certificate for each construction contractor or other entity identified by the certified taxpayer. The Department shall make the Quantum Computing Campus Building Materials Exemption Certificates

2699 available to each construction contractor or other entity identified by the
2700 certified taxpayer and to the certified taxpayer. [35 ILCS 120/2-29(d)]

2701
2702
2703

2) Request for exemption certificates shall be submitted electronically and
must contain the following information:

2704
2705
2706
2707

A) The name and address of the construction contractor or other
entity;

2708
2709

B) The name and location or address of the building project site;

2710
2711
2712

C) The estimated amount of the exemption for each construction
contractor or other entity for which a request for a Quantum
Computing Campus Building Materials Exemption Certificate is
made, based on a stated estimated average tax rate and the
percentage of the contract that consists of materials;

2713
2714
2715

D) The period of time over which supplies for the project are expected
to be purchased; and

2716
2717
2718

E) FEIN numbers of the contractor and other entity, to determine if
the contractor or other entity, or any partner, or a corporate
officer, and in the case of a limited liability company, any manager
or member, of the construction contractor or other entity, is or has
been the owner, a partner, a corporate officer, and, in the case of a
limited liability company, a manager or member, of a person that
is in default for moneys due to the Department under the ROTAs or
any other tax or fee Act administered by the Department. [35 ILCS
120/2-29(d)]

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3) The Department shall issue the exemption certificates electronically and
the certificates shall contain the following information:

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2733

A) Unique identifying number that shall be designed in such a way
that the Department can identify from the unique number on the
Exemption Certificate issued to a given construction contractor or
other entity, the name of the quantum computing campus and the
construction contractor or other entity to whom the Exemption
Certificate is issued;

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2736

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2739

B) Name of the construction contractor or entity to whom the
Exemption Certificate is issued;

2740
2741

- 2742 C) Issuance, effective, and expiration dates; and
2743
2744 D) Language stating that if the construction contractor or other entity
2745 who is issued the Exemption Certificate makes a tax-exempt
2746 purchase, as described in Section 2-29 of the ROTA, that is not
2747 eligible for exemption under Section 2-29 of the ROTA or allows
2748 another person to make a tax-exempt purchase, as described in
2749 Section 2-29 of the ROTA, that is not eligible for exemption under
2750 Section 2-29 of the ROTA, then, in addition to any tax or other
2751 penalty imposed, the construction contractor or other entity is
2752 subject to a penalty equal to the tax that would have been paid by
2753 the retailer under the ROTA as well as any applicable local
2754 retailers' occupation tax on the purchase that is not eligible for the
2755 exemption. [35 ILCS 120/2-29(g)]
2756
2757 4) The Department shall issue the Quantum Computing Campus Building
2758 Materials Exemption Certificates within 3 business days after receipt of
2759 request from the certified taxpayer. This requirement does not apply in
2760 circumstances where the Department, for reasonable cause, is unable to
2761 issue the Exemption Certificate within 3 business days. [35 ILCS 120/2-
2762 29(f)] Examples of "reasonable cause" include, but are not limited to,
2763 receipt of a request lacking all the information required by 35 ILCS 120/2-
2764 29, the receipt of a large number of requests for exemption certificates, or
2765 lack of sufficient staff to process the number of existing requests.
2766
2767 5) The certificates shall be issued for an initial period not to exceed 20 years
2768 and can be renewed once for a period not to exceed 20 years. [35 ILCS
2769 120/2-29(a)]
2770
2771 6) The Department may refuse to issue a Quantum Computing Campus
2772 Building Materials Exemption Certificate if the owner, any partner, or a
2773 corporate officer, and in the case of a limited liability company, any
2774 manager or member, of the construction contractor or other entity is or
2775 has been the owner, a partner, a corporate officer, and in the case of a
2776 limited liability company, a manager or member, of a person that is in
2777 default for moneys due to the Department under the ROTA or any other
2778 tax or fee Act administered by the Department. [35 ILCS 120/2-29(f)]
2779
2780 7) After the Department issues Exemption Certificates for a given quantum
2781 computing campus, the certified taxpayer may notify the Department of
2782 additional construction contractors or other entities that are eligible for a
2783 Quantum Computing Campus Building Materials Exemption Certificate.
2784 Upon receiving such a notification and subject to the other provisions of

2785 Section 2-29 of the ROTA, the Department shall issue a Quantum
2786 Computing Campus Building Materials Exemption Certificate to each
2787 additional construction contractor or other entity so identified. [35 ILCS
2788 120/2-29(h)]

2789
2790 8) A certified taxpayer may ask the Department to rescind a Quantum
2791 Computing Campus Building Materials Exemption Certificate previously
2792 issued by the Department to a construction contractor or other entity
2793 working at that certified quantum computing campus if that Quantum
2794 Computing Campus Building Materials Exemption Certificate has not yet
2795 expired. Upon receiving such a request and subject to the other
2796 provisions of Section 2-29 of the ROTA, the Department shall issue the
2797 rescission of the Quantum Computing Campus Building Materials
2798 Exemption Certificate to the construction contractor or other entity
2799 identified by the certified taxpayer and provide a copy of the rescission to
2800 the construction contractor or other entity and to the certified taxpayer.
2801 [35 ILCS 120/2-29(i)]

2802
2803 9) The request to issue, renew, or rescind an exemption certificate, or the
2804 request to add additional construction contractors or other entities, must be
2805 submitted to the Department by an employee, corporate officer, partner,
2806 limited liability company manager or member, or designated agent who
2807 cannot be a contractor or subcontractor, of the person or entity certified by
2808 the DCEO under Section 605-1115 of the Department of Commerce and
2809 Economic Opportunity Law of the Civil Administrative Code of Illinois
2810 (20 ILCS 605/605-1115). The designation of agent must be made in
2811 writing to the Department by the corporate officer, partner, limited
2812 liability company manager or member of the person or entity certified by
2813 the DCEO under Section 605-1115 of the Department of Commerce and
2814 Economic Opportunity Law of the Civil Administrative Code of Illinois
2815 (20 ILCS 605/605-1115).

2816
2817 g) Required documentation for tax-free sale.

2818
2819 1) A construction contractor or other entity shall not make tax-free
2820 purchases unless it has an active Exemption Certificate issued by the
2821 Department at the time of purchase. [35 ILCS 120/2-29(c)]

2822
2823 2) In addition, the retailer must obtain certification from the purchaser that
2824 contains:

2825

- 2826 A) *A statement that the building materials are being purchased for*
2827 *incorporation into real estate located in a quantum computing*
2828 *campus;*
2829
- 2830 B) *The location or address of the real estate into which the building*
2831 *materials will be incorporated;*
2832
- 2833 C) *The name of the quantum computing campus in which that real*
2834 *estate is located;*
2835
- 2836 D) *A description of the building materials being purchased;*
2837
- 2838 E) *The purchaser's Quantum Computing Campus Building Materials*
2839 *Exemption Certificate number issued by the Department; and*
2840
- 2841 F) *The purchaser's signature and date of purchase. [35 ILCS 120/2-*
2842 *29(e)]*
2843
- 2844 3) *The retailer may comply with this subsection (g) certification requirement*
2845 *by securing from the purchaser a completed and signed Form EZ-1.*
2846
- 2847 h) *Annual Reports.*
2848
- 2849 1) *Each contractor or other entity that has been issued a Quantum*
2850 *Computing Campus Building Materials Exemption Certificate under*
2851 *Section 2-29 of ROTa shall annually report to the Department the total*
2852 *value of the quantum computing campus building materials exemption*
2853 *from State taxes.*
2854
- 2855 A) *Reports shall contain information reasonably required by the*
2856 *Department to enable it to verify and calculate the total tax*
2857 *benefits for taxes imposed by the State and shall be broken down*
2858 *by quantum computing campus site.*
2859
- 2860 B) *Reports are due no later than May 31 of each year and shall cover*
2861 *the previous calendar year. [35 ILCS 120/2-29(k)]*
2862
- 2863 C) *The reports filed under Section 2-29 of ROTa shall be submitted*
2864 *electronically.*
2865
- 2866 2) *Failure to report data may result in revocation of the Quantum Computing*
2867 *Campus Building Materials Exemption Certificate issued to the contractor*
2868 *or other entity. Factors to be considered in revocations shall include, but*

2869 are not limited to, prior compliance with the reporting requirements,
2870 cooperation in discontinuing and correcting violations, and whether the
2871 certificate was used unlawfully during the preceding year. [35 ILCS
2872 120/2-29(k)]

2873
2874 3) Suspension of Exemption Certificate for Failure to Report Data. A
2875 contractor or other entity that fails to comply with the reporting
2876 requirements or deadlines provided in subsection (h)(1) shall have the
2877 exemption certificate for which it failed to report suspended.
2878

2879 A) First Offense: A contractor or other entity that fails to comply with
2880 the reporting requirements or deadlines provided in subsection
2881 (h)(1) shall have the Quantum Computing Campus Building
2882 Materials Exemption Certificate suspended until the contractor or
2883 other entity complies with the reporting requirements.
2884

2885 B) Second Offense: A contractor or other entity that fails to comply
2886 with the reporting requirements or deadlines provided in
2887 subsection (h)(1) for two reporting periods within a five-year
2888 period shall have the Quantum Computing Campus Building
2889 Materials Exemption Certificate issued to it suspended until 30
2890 days after the contractor or other entity complies with the reporting
2891 requirements.
2892

2893 C) Subsequent Offenses: A contractor or other entity that fails to
2894 comply with the reporting requirements or deadlines provided in
2895 subsection (h)(1) for more than two reporting periods within a five-
2896 year period shall have the Quantum Computing Campus Building
2897 Materials Exemption Certificate issued to it suspended until 180
2898 days after the contractor or other entity complies with the reporting
2899 requirements.
2900

2901 i) Unlawful Use of Exemption Certificate.
2902

2903 1) If the Department of Revenue determines that a construction contractor or
2904 other entity that was issued an Exemption Certificate under Section 2-29
2905 of the ROTA made a tax-exempt purchase, as described in Section 2-29 of
2906 the ROTA, that was not eligible for exemption under Section 2-29 of the
2907 ROTA or allowed another person to make a tax-exempt purchase, as
2908 described in Section 2-29 of the ROTA, that was not eligible for
2909 exemption under Section 2-29 of the ROTA, then, in addition to any tax or
2910 other penalty imposed, the construction contractor or other entity is
2911 subject to a penalty equal to the tax that would have been paid by the

2912 retailer under the ROTA as well as any applicable local retailers'
2913 occupation tax on the purchase that was not eligible for the exemption.
2914 [35 ILCS 120/2-29(j)]
2915

2916 2) Suspension or Revocation of Exemption Certificate for Unlawful Use of
2917 Exemption Certificate. The Department shall suspend or revoke the
2918 exemption certificate of a contractor or other entity found to have used an
2919 exemption certificate in violation of 35 ILCS 120/2-29 as reflected in
2920 subsection (i)(1), as follows:
2921

2922 A) First Offense: In addition to all other penalties provided by law, a
2923 first offense shall result in the suspension of the Quantum
2924 Computing Campus Building Materials Exemption Certificate
2925 issued to a contractor or other entity for one year.
2926

2927 B) Second Offense: In addition to all other penalties provided by law,
2928 a second offense shall result in permanent revocation of the
2929 Quantum Computing Campus Building Materials Exemption
2930 Certificate issued to the contractor or other entity.
2931

2932 j) Ineligibility and Protest Procedures.
2933

2934 1) A contractor or other entity is not eligible to receive additional exemption
2935 certificates under Section 2-29 during the period that one or more
2936 exemption certificates issued to it under Section 2-29 are subject to
2937 suspension or revocation.
2938

2939 2) Any person aggrieved by any decision of the Department under
2940 subsections (h) and (i) may, within 20 days after notice of the decision,
2941 protest and request a hearing, whereupon the Department shall give notice
2942 to that person of the time and place fixed for a hearing, shall hold a
2943 hearing and then issue its final administrative decision in the matter to that
2944 person. In the absence of a protest within 20 days, the Department's
2945 decision shall become final without any further determination being made
2946 or notice given. For information about practice and procedure for hearings
2947 before the Illinois Department of Revenue see 86 Ill. Adm. Code 200.
2948

2949 (Source: Added at 50 Ill. Reg. _____, effective _____)