

ILLINOIS REGISTER
DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.340 Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795; P.A. 98-584
- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking updates and restructures the rolling stock exemption rule to:

- Set forth the elements of the exemption in a logical order and delete obsolete/dated provisions.
- Implement Public Act 98-584 which sets forth the test for whether aircraft or watercraft meet the requirements to qualify as rolling stock moving in interstate commerce and therefore qualify for an exemption from Retailers' Occupation and Use Tax. This change makes the test used the same as that for motor vehicles and trailers.
- Replace references to the Interstate Commerce Commission with the Federal Motor Carrier Safety Administration and make other changes regarding how to document the exemption.
- Add examples of what intrastate movements do and do not qualify as interstate trips/miles.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

Section Number
130.330

Proposed Action
Amendment

Illinois Register Citation
40 Ill. Reg. 5853; April 8, 2016

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11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Samuel J. Moore
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

(217) 782-2844

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The Public Act change codified in this rule would impact those entities purchasing aircraft or watercraft for use as rolling stock moving in interstate commerce. The updated documentation requirements for eligibility for the rolling stock exemption would affect those entities purchasing motor vehicles, trailers, aircraft, and watercraft for use as rolling stock.

B) Reporting, bookkeeping or other procedures required for compliance: The change made by the Public Act codified by this rule would require similar reporting and bookkeeping to claim this exemption as prior to this change.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January, 2016.

The full text of the Proposed Amendment begins on the next page:

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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Section 130.340 Rolling Stock

- a) *Notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. [35 ILCS 120/2-5(12)] In addition, notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. [35 ILCS 120/2-5(13)] For example, the exemption may also apply to lessors under leases of less than one year's duration and manufacturers who provide tangible personal property (such as shipping containers) to interstate carriers for hire when those interstate carriers use that property as rolling stock moving in interstate commerce.*

1) In making an initial determination of eligibility, in addition to any other criteria that a motor vehicle, trailer, aircraft, watercraft, or railroad car must meet to qualify for the rolling stock exemption, two conditions that it must meet in each instance are:

A) it must transport persons or property for hire; and

B) it must transport persons or property in interstate commerce.

2) The purchase of rolling stock that does not meet both criteria in subsection (a)(1) is not eligible for the rolling stock exemption under any circumstances.

- b) Definitions. As used in this Section:

For purposes of subsection (g)(2), the phrase "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.

"Dual use facility" means a facility that contains (i) both a river terminal and a processing plant at the same location; (ii) both a rail terminal and a

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processing plant at the same location; or (iii) both an intermodal terminal facility and a processing plant at the same location.

“Gross vehicle weight rating” or “GVWR” means the value specified by the manufacturer as the loaded weight of a single vehicle. [625 ILCS 5/1-124.5]

“Intermodal terminal facility” means land, improvements to land, equipment, and appliances necessary for the receipt and transfer of goods between one mode of transportation and another, at least one of which must be transportation by rail. [65 ILCS 5/11-74.4-3.1].

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

“Motor vehicle” means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].

“Rail terminal” means specialized locations along railroad lines developed to serve the intermodal transportation network. Rail terminals offer intermodal transfer facilities and facilitate interstate commerce.

“River terminal” means specialized locations along rivers developed to serve the intermodal transportation network. River terminals offer intermodal transfer facilities and facilitate interstate commerce.

“Trailer” means a trailer as defined in Section 1-209 of the Illinois Vehicle Code; a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and a pole trailer as defined in Section 1-209 of the Illinois Vehicle Code.

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

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a part of the cars or locomotives. The exemption includes some equipment (such as containers called trailers and containers transferred at intermodal terminal facilities) that are used by interstate carriers for hire, loaded on railroad cars, to transport property, but that do not operate under their own power and are not actually attached to the railroad cars. The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of the vehicles, and that do not participate directly in some way in the transportation process. The exemption does not include property of an interstate carrier for hire used in the company's office, such as furniture, computers typewriters, office supplies and the like.

- c) A motor vehicle, trailer, aircraft, or watercraft that otherwise meets the requirements for the rolling stock exemption set forth in subsection (g) will qualify for the rolling stock exemption if, during each 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. Documentation of all trips taken or miles traveled by the rolling stock in each 12-month period must be maintained and be made available to the Department upon request. For a discussion of 12-month periods, see subsection (f). For a discussion of the "greater than 50% of trips or miles" test, see subsection (g). The rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as to any tangible personal property that it purchases because it does not meet the statutory tests of being an interstate carrier for hire.
- d) Generally, the rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as to any rolling stock that it purchases because it does not meet the statutory test of being an interstate carrier for hire. However, provided that it is supported by adequate books and records, Except as provided in subsection (h) of this Section, the exemption applies to vehicles used by an interstate carrier for hire, even just between points in Illinois, in transporting, for hire, persons whose journeys or property whose shipments, originate or terminate outside Illinois on other carriers. In contrast, when calculating interstate trips or miles to determine whether rolling stock qualifies for the exemption, trips or miles The exemption cannot be claimed for an interstate carrier's use of vehicles solely between points in Illinois do not qualify as interstate trips or miles if where the journeys of the passengers or the shipments of property neither originate nor terminate outside Illinois.

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- e) Basic guidelines on the trips or miles that may and may not be used to claim the rolling stock exemption.
- 1) For interstate trips or interstate miles to qualify, the interstate trips or miles must be for hire. However, the total amount of trips taken or miles traveled by rolling stock within any 12-month period includes trips or miles for hire and those not for hire. An example of a not for hire trip or not for hire miles is when a business uses its truck to transport its own merchandise.

EXAMPLE - Non-Qualifying: A farmer in Decatur, Illinois sells grain to an interstate carrier. The carrier takes delivery of the grain in Decatur and hauls it to Oklahoma City, Oklahoma. The shipment from Decatur, Illinois to Oklahoma City, Oklahoma is not included in the carrier's qualifying interstate trips or miles for hire because the shipment was not for hire. The carrier owned the grain it was shipping interstate. For an interstate trip to qualify, it must be for hire.
 - 2) Any use of the rolling stock in a movement from one location to another, including but not limited to mileage incurred by rolling stock returning from a delivery without a load or passengers, shall be counted as a trip or mileage.
 - 3) However, the movement of the rolling stock in relation to the maintenance or repair of that rolling stock shall not count as a trip or mileage.
 - 4) Any mileage shown for rolling stock that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that rolling stock. If the trips method has been chosen for that rolling stock, the Department shall use its best judgment and information to determine the number of trips represented by such mileage.
 - 5) A movement whereby rolling stock is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby rolling stock is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire.
 - 6) A for-hire movement of a motor vehicle or trailer that is transporting property to or from a river terminal qualifies as an interstate trip for

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hire, because, absent evidence to the contrary, it is presumed that shipments through a river terminal are destined for or coming from an out-of-state location. Such a movement is best evidenced by including the words “river terminal” in the documentation related to the movement. The documentation of any movement to or from a dual use facility that includes a river terminal must specify whether the movement was to or from the river terminal at the dual use facility (qualifying) or the processing plant at the dual use facility (non-qualifying). Absent documentation to the contrary, it is presumed that the movement was to the processing plant. See subsection (e)(10), EXAMPLE 4.

- 7) A for-hire movement of a motor vehicle or trailer that is transporting property to a rail terminal qualifies as an interstate trip for hire, because, absent evidence to the contrary, it is presumed that shipments to a rail terminal are destined for an out-of-state location. Such a movement is best evidenced by including the words “rail terminal” in the documentation related to the movement. A for-hire movement of a motor vehicle or trailer that is transporting property from a rail terminal in Illinois to another location in Illinois, however, is not presumed to be an interstate trip for hire. To qualify as an interstate trip for hire, such a trip would require documentation showing that the product being picked up at the rail terminal is coming from an out-of-state location as part of an interstate trip for hire. The documentation of any movement to a dual use facility that includes a rail terminal must specify whether the movement was to the rail terminal at the dual use facility (qualifying) or the processing plant at the dual use facility (non-qualifying). Absent documentation to the contrary, it is presumed that the movement was to the processing plant.

EXAMPLE – Non-Qualifying: A grain elevator located at a rail terminal in Illinois receives shipments of grain by truck from a number of Illinois farms, most of which is destined to be shipped out of state by rail (trips to the rail terminal presumed to qualify). However, a small percentage of the grain stored at the rail terminal in Illinois is sold to a feed processing plant in Illinois. A carrier for hire picks up the grain at the Illinois rail terminal and transports it to the feed processing plant in Illinois. The shipment of the grain from the rail terminal in Illinois to the feed processing plant in Illinois does not qualify

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as an interstate trip or miles because the grain originated in Illinois and terminated in Illinois.

- 8) A for-hire movement of a motor vehicle or trailer that is transporting property to or from an intermodal terminal facility qualifies as an interstate trip for hire, because, absent evidence to the contrary, it is presumed that shipments through an intermodal terminal facility are destined for or coming from an out-of-state location. Such a movement is best evidenced by including the words "intermodal terminal facility" in the documentation related to the movement. The documentation of any movement to or from a dual use facility that includes an intermodal terminal facility must specify whether the movement was to or from the intermodal terminal facility at the dual use facility (qualifying) or the processing plant at the dual use facility (non-qualifying). Absent documentation to the contrary, it is presumed that the movement was to the processing plant.
- 9) A movement in which an item of tangible personal property is transported to a location in Illinois, has its form or use changed through some process, and then is transported out of state does not count as a qualifying trip or miles. The item transported must remain the same for the duration of the interstate movement in order to qualify. An example of non-qualifying trips or miles would include a situation where a carrier for hire has a contract to transport raw materials (e.g., corn) to a feed mill where it is manufactured into cattle feed and thereafter transported by that same carrier for hire to an out-of-state location. Even though the property is transported out of state, it changes its form or use before transport out of state and therefore the transportation of the corn to the feed mill does not qualify. The trips or miles related to the transport of the cattle feed to the out-of-state location, however, would qualify.
- 10) If a carrier for hire only transports persons or property between points in Illinois but claims to be an interstate carrier for hire, then, in order to satisfy the rolling stock exemption requirement that a journey or shipment must originate or terminate outside Illinois to qualify as an interstate trip or interstate miles, the carrier for hire must demonstrate through its books and records, such as a bill of lading or a contract for delivery to or from out of state, that the intrastate leg of the journey or shipment is part of an interstate journey or shipment. Following are examples of intrastate journeys and shipments that do and do not qualify.

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EXAMPLE 1 - Qualifying: A farmer in Decatur, Illinois sells grain to a company in Oklahoma City, Oklahoma and agrees to ship the grain. A carrier for hire picks up the grain in Decatur. The bill of lading shows that the grain is being shipped to Oklahoma City, Oklahoma, via Effingham, Illinois. The carrier for hire hauls the grain to a grain elevator in Effingham, Illinois that is not a rail terminal or river terminal, where it is off-loaded. It is later loaded onto another carrier for hire for continuation of the shipment to Oklahoma City, Oklahoma. The leg of the shipment between Decatur, Illinois and Effingham, Illinois is included in the carrier's qualifying interstate trips or miles for hire because the bill of lading in the carrier's records documents that the grain the carrier shipped was bound for Oklahoma City, Oklahoma, even though this carrier only hauled the grain from Decatur to Effingham.

EXAMPLE 2 - Non-Qualifying: A farmer in Decatur, Illinois sells grain to a grain elevator in Effingham, Illinois that is not a rail terminal or river terminal. A carrier for hire picks up the grain in Decatur and hauls it to the grain elevator in Effingham, Illinois where it is off-loaded. The bill of lading shows that the grain is being shipped to Effingham, Illinois where the grain is sold and title passes to the Effingham grain elevator. Thereafter, the grain elevator in Effingham, Illinois sells the grain to a company in Oklahoma City, Oklahoma. The same carrier for hire hauls the grain from Effingham, Illinois to Oklahoma City, Oklahoma. The shipment from Decatur, Illinois to Effingham, Illinois does not qualify as an interstate trip or interstate miles for hire because the bill of lading documents that the grain the carrier shipped is bound for Effingham, Illinois. This is so even though the grain is eventually shipped out of state from Effingham to Oklahoma City. The trip from Effingham, Illinois to Oklahoma City, Oklahoma by the same carrier would, however, be included in the qualifying interstate trips or miles for hire for the carrier.

EXAMPLE 3 - Qualifying: A farmer in Pleasant Plains, Illinois sells grain to a company and agrees to ship the grain via a river terminal. A carrier for hire picks up the grain in Pleasant Plains and hauls it to a river terminal in Peoria, Illinois for shipment to the purchaser. The leg of the shipment between

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Pleasant Plains, Illinois and Peoria, Illinois is included in the carrier's qualifying interstate trips or miles for hire because the delivery is made to a river terminal, where it is presumed it will thereafter be shipped out of state. See subsection (e)(6).

EXAMPLE 4 - Non-Qualifying: A farmer in Pleasant Plains, Illinois sells grain to a large food processing company and hires a carrier to haul the grain to one of the company's processing plants located at a dual use facility on the Illinois river. The dual use facility contains a processing plant and a river terminal. The shipment to the processing plant does not qualify as an interstate trip or miles because, even though the dual use facility also operates as a river terminal, the grain was delivered to the processing plant and not shipped via the river terminal located at the dual use facility.

- 11) A limousine that carries for hire a person to or from an airport is deemed to be carrying a person whose journey originates or terminates outside Illinois, even if the limousine travels just between points in Illinois.

EXAMPLE 1 – Qualifying: A limousine picks up a passenger at his residence in downtown Chicago and drives him to O'Hare International Airport. This trip is a qualifying trip or miles for purposes of the exemption. In addition, the limousine picks up another passenger at O'Hare International Airport and drives her to a hotel in downtown Chicago. This trip is also a qualifying trip or miles for purposes of the exemption.

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

- f) Twelve month periods; leased items no longer used in a qualifying manner.
- 1) To be eligible for the rolling stock exemption, motor vehicles, trailers, aircraft, and watercraft must carry persons or property for hire in interstate commerce for greater than 50% of their total trips or for greater than 50% of their total miles for each 12-month period subject

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to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act). The first 12-month period for the use of a vehicle, trailer, aircraft, or watercraft begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle, trailer, aircraft, or watercraft is not required to be titled or registered with an agency of this State and the vehicle, trailer, aircraft, or watercraft is not titled or registered with an agency of this State, the first 12-month period for use of that vehicle, trailer, aircraft, or watercraft begins on its date of purchase or first use in Illinois, whichever is later.

- A) Except as provided in subsection (f)(2), if a vehicle, trailer, aircraft, or watercraft carries persons or property for hire in interstate commerce in a manner that qualifies for the rolling stock exemption in the first 12-month period, but then does not carry persons or property for hire in interstate commerce in a manner that qualifies for the rolling stock exemption in a subsequent 12-month period, the vehicle, trailer, aircraft, or watercraft, or any property attached to that vehicle, trailer, aircraft or watercraft upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price and tax is due at the conclusion of the 12-month period in which the exemption conditions are no longer met. For example, if a vehicle is used in a qualifying manner for the first 12-month period, but is not used in a qualifying manner for the second 12-month period, that vehicle will be subject to tax based upon its original purchase price, even if it is then used in a qualifying manner in the third 12-month period. As a result, when the rolling stock ceases to qualify for the exemption (at the conclusion of the second 12-month period when the exemption conditions are no longer met), the purchaser must file a Use Tax return and pay the tax.
- B) For repair or replacement parts to qualify for the rolling stock exemption, the vehicle, trailer, aircraft, or watercraft upon which those parts are installed must be used in a qualifying manner for the vehicle, trailer, aircraft, or watercraft's 12-

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month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter (i.e. the parts follow the 12-month periods for the rolling stock that they become a part of). For example, if repair parts were attached or incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability for the vehicle), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter in order for the parts to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.

C) The following examples apply 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.

i) A vehicle was purchased on January 15, 2015 and titled and registered on that date and the appropriate return was timely filed claiming the rolling stock exemption. The vehicle was used in a qualifying manner for the first 12-month period ending on January 15, 2016. However, the vehicle was not used in a qualifying manner at any time thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on June 30, 2018. If the vehicle had been originally purchased and registered outside Illinois and later relocated and registered in Illinois, the first 12-month period would begin on the date of registration in Illinois. For example, if the vehicle was purchased on January 15, 2015 and titled and registered on that date in Missouri, but later relocated to Illinois and registered in Illinois on July 20, 2015, then the period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that vehicle would expire on December 31, 2018.

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- ii) A vehicle was purchased on July 10, 2015 and was titled and registered on that date. On January 12, 2018 the owner purchased new tires for the vehicle and the vehicle was used in a qualifying manner for the first 12-month period ending on July 10, 2018 and the two subsequent 12-month periods ending on July 10, 2020. However, the vehicle was not used in a qualifying manner at any time thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding the replacement parts (new tires) would expire on June 30, 2021.
- 2) When motor vehicles, trailers, aircraft, or watercraft that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase, are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which the property is no longer subject to a qualifying lease. The provisions of this subsection (f)(2) apply equally to owners, lessors and shippers exempt under 35 ILCS 120/2-5(13) who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.
- A) EXAMPLE: A vehicle was purchased for lease to an interstate carrier for hire on August 15, 2015 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The appropriate return was timely filed claiming the rolling stock exemption. The qualifying lease ended on November 15, 2016, and the vehicle was no longer used in a qualifying manner. At the time the qualifying lease ends and the vehicle reverts to the lessor, the lessor owes Use Tax on the fair market value of the vehicle on the date it reverts to the lessor.

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The return and the tax are due by the last day of the month following the month in which the property reverts to the lessor. The period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that vehicle would expire on December 31, 2019.

g) This subsection sets forth the test for whether motor vehicles, trailers, aircraft, or watercraft, or repair and replacement parts for each, qualify for the rolling stock exemption.

1) Motor Vehicles:

A) Except for limousines, the exemption for motor vehicles used as rolling stock moving in interstate commerce cannot be claimed for motor vehicles whose gross vehicle weight rating is 16,000 pounds or less. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed for limousines purchased on or after August 28, 2007, even if their gross vehicle weight rating is 16,000 pounds or less, if the use of the limousines otherwise meets the requirements set out in this subsection (g).

B) *A motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds (or a limousine) will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (h) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (g)(1)(B), the owner will be deemed to have chosen the mileage method. [35 ILCS 120/2-51(c)]* Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock

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exemption will remain in effect for the duration of the purchaser's ownership of that motor vehicle. [35 ILCS 120/2-51(f)]

C) Examples of application of the greater than 50% trips test:

EXAMPLE 1 - Qualifying: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, 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 truck continues to Indianapolis, Indiana and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The truck then continues to Gary, Indiana and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If these were all the trips that the truck made within the first 12-month period (or were all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 - Non-Qualifying: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient (does not qualify as interstate trip because it is strictly intrastate transport). The truck then continues to Gary, Indiana and picks up property for use by that carrier's business (does not qualify because it must be for hire). The truck then returns to Chicago, Illinois (does not qualify

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because returning from a non-qualifying trip out of state). The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If these were all the trips that the truck made within the first 12-month period (or were all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (g) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire.

EXAMPLE 3 - Non-Qualifying: An interstate carrier uses a truck to carry property for hire and makes 150 trips during the year. All of the trips consist of hauling grain for hire. Fifty of the trips are from local farms in Illinois to a grain elevator in Illinois that is not a rail terminal or river terminal, where the bill of lading shows the end destination as the grain elevator (do not qualify because no evidence grain moving interstate (see subsection (e)(10))). Fifty of the trips are from local farms in Illinois to a river terminal (qualify, because delivered to a river terminal, which is a presumed interstate movement (see subsection (e)(6))). Fifty of the trips are from local farms in Illinois to a grain processing facility in Illinois (do not qualify because grain will have its form or use changed at processing facility before any further transport (see subsection (e)(9))). Because only 50 of the 150 trips, or 33.3% of the trips qualify as moving property for hire in interstate commerce (river terminal trips), the truck does not qualify for the test set forth in this subsection (g).

D) Example of application of the greater than 50% mileage test:

EXAMPLE 1 - Qualifying: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois (88 mile movement) 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 miles because documentation of interstate shipment). The truck continues to Indianapolis, Indiana (125 mile movement) and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The truck then continues to

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Hammond, Indiana (151 mile movement) and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The truck then returns empty to Springfield, Illinois (204 mile movement) from the delivery in Hammond, Indiana (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The truck is considered to have driven a total of 568 qualifying miles. If these were all the miles that the truck drove within the first 12-month period (or were all the miles that truck drove in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the truck would also have qualified for the exemption.

EXAMPLE 2 - Non-Qualifying: If the truck described above in Example 1 had traveled instead a total of 1568 miles during that 12-month period with 1000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption because it only had 568 qualifying miles out of 1568 miles for a 36.22% qualifying percentage. Any repair or replacement parts purchased for the truck would not have qualified for the exemption.

EXAMPLE 3 - Non-Qualifying: An interstate carrier uses a truck to carry property for hire and travels 1500 miles during a 12-month period. All of the trips consist of hauling grain for hire. Five hundred of the miles are from local farms in Illinois to a grain elevator in Illinois that is not a rail terminal or river terminal, where the bill of lading shows the end destination as the grain elevator (do not qualify because no evidence grain moving interstate (see subsection (e)(10))). Five hundred of the miles are from local farms in Illinois to a river terminal (qualify, because delivered to a river terminal, which is a presumed interstate movement (see subsection (e)(6))). Five hundred of the miles are from local farms in Illinois to a grain processing facility in Illinois (do not qualify because grain will have its form or use changed at processing facility before any further transport (see subsection (e)(9))). Because only 500 of the 1500 miles, or 33.3% of the miles, qualify as moving property for hire in interstate commerce (river terminal miles),

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the truck does not qualify for the test set forth in this subsection (g).

EXAMPLE 4 - Qualifying and Non-Qualifying: A short-term truck lease company (e.g. 3 months) leases trucks whose gross vehicle weight rating exceeds 16,000 pounds. The trucks are typically leased to persons who transport property in interstate commerce. The lease company requires its customers to provide detailed records of the destination of each trip of a leased truck and whether the transport was for hire. One of the lease company's trucks travels 3,000 miles during its first 12-month period, 4,500 miles during its second 12-month period, and 2,800 miles during its third 12-month period. The lease company can show through the records it collects that, for each 12-month period, the truck carried property in interstate commerce for hire for greater than 50% of the miles traveled by the truck. For another truck, however, the records show that, for the second 12-month period, the truck did not transport property in interstate commerce for hire. This is because of the combination of (i) trips that were strictly in-state and for which the property did not originate or terminate out of state and (ii) trips that were not for-hire, but rather were trips in which the customer hauled its own property. A third truck did not qualify for the exemption because the lease company could not provide the documentation to support its claim that the truck was used in each of the 12-month periods to carry persons or property for hire in interstate commerce for greater than 50% of its total trips or total miles for that period.

2) Trailers:

- A) To qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. [35 ILCS 120/2-51(d)]
- B) Except as provided in subsection (g)(2)(C), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method to document that those trailers will be used in a manner that qualifies for the

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exemption. If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (h) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (g)(2)(B), the owner will be deemed to have chosen the mileage method. [35 ILCS 120/2-51(d)] The election to use either the trips or mileage method made as required under this subsection (g)(2)(B) will remain in effect for the duration of the purchaser's ownership of that trailer. [35 ILCS 120/2-51(f)]

- C) The owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect at the time of purchase to alternatively document the qualifying use of those trailers in the following manner:
- i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (g)(1) of this Section, then that trailer will also qualify for the exemption;
 - ii) if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (g)(1) of this Section, then that trailer will also qualify for the exemption; or
 - iii) if a group of trailers is dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify under subsection (g)(1) of this Section, then the percentage of those trailers that qualify for the exemption is equal to the percentage of the motor vehicles in the group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (g)(2)(C)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers

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would have met the test in subsection (g)(2)(A) of this Section.

D) Examples where trailers are dedicated to a motor vehicle or motor vehicles.

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

EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to a subsidiary company's 20 truck fleet and the owner elected at purchase to document the qualification of the trailers based on the qualification of the trucks to which they would be dedicated. Only 19 of those 20 trucks qualify for the exemption for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30 trailer group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered to have met the requirements for the exemption during those periods.

3) Aircraft and watercraft:

A) *For aircraft and watercraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. [35 ILCS 120/2-51]* For aircraft and watercraft purchased before January 1, 2014 to be eligible for the exemption, the taxpayer is required to show that the aircraft or watercraft transported persons or property for hire in interstate commerce during a 12-month period on a "regular and frequent" basis. See National School

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Bus Service, Inc. v. Department of Revenue, 302 Ill. App. 3d 820 (1st Dist. 1998).

B) *The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in this subsection. For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in this subsection. [35 ILCS 120/2-51(e)] If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (h) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. Once such an election for an aircraft or watercraft has been made, or is deemed to have been made if no election is made, the method used to document the qualification of that aircraft or watercraft for the rolling stock exemption will remain in effect for the duration of the purchaser's ownership of that aircraft or watercraft. [35 ILCS 120/2-51(f)]*

C) *Examples of application of the greater than 50% trips test:*

EXAMPLE 1 (Aircraft - Qualifying): The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration which 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. Part 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from O'Hare Airport in Chicago, Illinois to MidAmerica St. Louis Airport in Mascoutah, Illinois where some of the passengers deplane. As documented on the itinerary provided to the carrier, those passengers will be flown, as part of the continuation of their journey, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate travel). The aircraft

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continues to Indianapolis, Indiana and more passengers deplane in Indianapolis (qualifies as interstate trip because transported out of state). The aircraft then continues to Philadelphia, Pennsylvania and the remainder of the passengers deplane in Philadelphia (qualifies as interstate trip because transported out of state). The aircraft then returns empty to O'Hare Airport from Philadelphia (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The aircraft is considered to have made a total of four trips (one trip to Mascoutah, Illinois, one trip to Indianapolis, Indiana, one trip to Philadelphia, Pennsylvania, and a return trip back to Chicago, Illinois). If these were all the trips that the aircraft made within the first 12-month period (or were all the trips that aircraft made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because it made 4 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 aircraft during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 (Aircraft – Non-Qualifying): The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration which 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. Part 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from O'Hare Airport in Chicago, Illinois to Abraham Lincoln Capitol Airport in Springfield, Illinois where the passengers deplane (does not qualify as interstate trip because it is strictly intrastate transport). The aircraft then continues to Indianapolis, Indiana and picks up employees of the charter aircraft company (does not qualify because it must be for hire). The aircraft then returns to Chicago, Illinois (does not qualify because returning from a non-qualifying trip out of state). The aircraft is considered to have made a total of three trips (one to Springfield, Illinois, one to Indianapolis, Indiana, and a return trip to Chicago, Illinois). If these were all the trips that the aircraft made within the first 12-month period (or were all the

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trips that aircraft made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (g) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire. Any repair or replacement parts purchased for the aircraft during that first 12-month period would also not have qualified for the exemption.

EXAMPLE 3 (Aircraft – Non-Qualifying): A corporation purchases a jet aircraft and leases it to a qualifying interstate air carrier for hire. The lease was in effect at the time of purchase. They elect the trips test method on the Rolling Stock Certification form. During the first 12-month period, the aircraft had 100 trips. Of that total, 50 trips were for the transportation of company employees. Another 25 trips were for non-qualifying intrastate flights for hire. The remaining 25 trips were for qualifying interstate movements for hire. The aircraft does not qualify for the rolling stock exemption as 75% of their trips (75/100) were for non-qualifying movements.

EXAMPLE 4 (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 (e)(5))). 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 back to Moline, 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

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qualify for the test set forth in this subsection (g) for that 12-month period because it made 4 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 5 (Watercraft): 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 this subsection (g) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire.

D) Example of application of the greater than 50% mileage test:

EXAMPLE 1 (Aircraft - Qualifying): The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration which 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. Part 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from MidAmerica St. Louis Airport in Mascoutah, Illinois to Chicago Midway International Airport in Chicago, Illinois (1 hour flight time) where some of the passengers deplane. As documented on the itinerary provided to the carrier, those passengers will be flown, as part of the continuation of their journey, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate travel). The aircraft

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continues to LaGuardia Airport, New York City, New York (2 hours flight time) and more passengers deplane at LaGuardia (qualifies as interstate trip because transported out of state). The aircraft then continues to Indianapolis International Airport, Indianapolis, Indiana (2 hours and 30 minutes flight time) and the remainder of the passengers deplane in Indianapolis (qualifies as interstate trip because passengers originated in Illinois). The aircraft then returns empty to MidAmerica St. Louis Airport, Mascoutah, Illinois (2 hours and 45 minutes flight time) from the stop in Indianapolis, Indiana (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The aircraft is considered to have flown a total of 8 hours and 15 minutes flight time. If these were all the flight hours that the aircraft flew within the first 12-month period (or were all the flight hours that the aircraft flew in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because 100% of its flight hours were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the aircraft by the owner of the aircraft would also have qualified for the exemption.

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

EXAMPLE 3 (Aircraft Non-Qualifying): A corporation purchases a jet aircraft and leases it to a qualifying interstate air carrier for hire. The lease was in effect at the time of purchase. They elect the mileage test method on the Rolling Stock Certification form and use flight hours instead of mileage. During the first 12-month period, the aircraft had 400 hours of flight time. Of that total, 250 hours were for the transportation of company employees. Another 50 hours were for non-qualifying intrastate flights for hire. The

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remaining 100 hours of flight time were for qualifying interstate movements for hire. The aircraft does not qualify for the rolling stock exemption as 75% of their flight hours (300/400) were for non-qualifying movements.

EXAMPLE 4 (Watercraft - Qualifying): An interstate carrier uses a watercraft to carry property for hire from Chicago, Illinois to Peoria, Illinois (144 nautical mile movement) 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 miles because documentation of interstate shipment). The watercraft continues to St. Louis, Missouri (148 nautical mile movement) and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The watercraft then continues to Cape Girardeau, Missouri (102 nautical mile movement) 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 Chicago, Illinois (394 nautical mile movement) from the delivery in Cape Girardeau, Missouri (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The watercraft is considered to have traveled a total of 788 qualifying nautical miles. If these were all the miles that the watercraft traveled within the first 12-month period (or were all the miles that watercraft traveled in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the watercraft would also have qualified for the exemption.

EXAMPLE 5 (Watercraft – Non-Qualifying): If the watercraft described above in Example 4 had traveled instead a total of 2788 nautical miles during that 12-month period with 2000 of those nautical miles not being documented as qualifying nautical miles, the watercraft would not have qualified for the exemption because it only had 788 qualifying nautical miles out of 2788 nautical miles for a 28.26% qualifying percentage.

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Any repair or replacement parts purchased for the watercraft would not have qualified for the exemption.

- 4) Repair and Replacement Parts for motor vehicles, trailers, aircraft, and watercraft:
- A) Motor vehicles and trailers. The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. [35 ILCS 120/2-51(c) and (d)]
- B) Aircraft and watercraft. *Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft or watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in this subsection (g) for aircraft and watercraft, regardless of when the aircraft or watercraft was purchased. Persons who purchased aircraft or watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce under this subsection (g).* [35 ILCS 120/2-51(e)]
- h) Certification of exemption. In order to properly claim the rolling stock exemption, the purchaser must give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is an interstate carrier for hire, the purchaser must include its United States Department of Transportation Number (“USDOT Number”) and Interstate Operating Authority Number (“MC Number”) issued by the Federal Motor Carrier Safety Administration or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to

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have an MC Number. In the latter event, the carrier must include its USDOT Number. If the carrier is a type that is subject to regulation by some Federal Government regulatory agency other than the Federal Motor Carrier Safety Administration, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser 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. USDOT Number, MC Number, other number if appropriate). 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. The giving of a certification does not preclude the Department from going behind it and 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 or facts that show that the purchase was taxable and should not have been certified as being tax exempt. 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) Federal Motor Carrier Safety Administration 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 that to be 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.

- ~~e) — This subsection applies to motor vehicles and trailers for purposes of subsections (f), (h) and (i) of this Section.~~
- ~~1) — The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle~~

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~~or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. Motor vehicles and trailers must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).~~

- 2) ~~When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which the property is no longer subject to a qualifying lease. The provisions of this subsection (e)(2) apply equally to owners, lessors and shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.~~
- f) ~~From August 14, 1999 through June 30, 2003, pursuant to Public Act 91-0587, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period. [35 ILCS 120/2-51] The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that~~

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~~vehicle or trailer begins on the date of purchase of that vehicle or trailer. The vehicle or trailer must continue to be used in a qualifying manner for each consecutive 12-month period. The Department will apply the provisions of this subsection in determining whether the items qualify for exempt status under this Section for all periods in which liability has not become final or for which the statute of limitations for filing a claim has not expired. A liability does not become final until the liability is no longer open to protest, hearing, judicial review, or any other proceeding or action, either before the Department or in any court of this State.~~

- ~~1) — If a vehicle or trailer carries persons or property for hire in interstate commerce on 15 or more occasions in the first 12-month period or in a subsequent 12-month period, but then does not carry persons or property for hire in interstate commerce on 15 or more occasions in a subsequent 12-month period, the vehicle, trailer, or any property attached to that vehicle or trailer upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price. For example, if a vehicle was used in a qualifying manner for the first 12-month period, but was not used in a qualifying manner for the second 12-month period, that vehicle will be subject to tax based upon its original purchase price even if it was then used in a qualifying manner in the third 12-month period.~~
- ~~2) — For repair or replacement parts to qualify for the rolling stock exemption, the vehicle or trailer upon which those parts are installed must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. For example, if repair parts were attached or incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and the 12-month periods thereafter in order for the parts to continue to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.~~
- ~~3) — For vehicles, trailers, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part of the motor vehicle or trailer that are *purchased by a lessor, for lease to*~~

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~~an interstate carrier for hire, by lease executed or in effect at the time of the purchase, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (f)(3) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.~~

- 4) ~~The provisions of Public Act 91-0587 did not change 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.~~
- A) ~~For example, a vehicle was purchased on January 15, 2000 and titled and registered on that date and was used in a qualifying manner for the first 12-month period ending on January 15, 2001. However, that vehicle was not used in a qualifying manner at anytime thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on June 30, 2003.~~
- B) ~~For example, a vehicle was purchased for lease to an interstate carrier for hire on August 15, 2000 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The qualifying lease ended on November 15, 2001, and the vehicle was no longer used in a qualifying manner. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on December 31, 2003.~~

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- g) ~~When the rolling stock exemption may properly be claimed, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is a carrier, the purchaser must include its Interstate Commerce Commission Certificate of Authority number or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an Interstate Commerce Commission Certificate of Authority. In the latter event, the carrier must include its Illinois Commerce Commission Certificate of Registration number indicating that it is recognized by the Illinois Commerce Commission as an interstate carrier for hire. If the carrier is a type that is subject to regulation by some Federal Government regulatory agency other than the Interstate Commerce Commission, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser 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. The giving of a certification does not preclude the Department from going behind it and disregarding it if, in examining the purchaser's records or activities, the Department finds that the certification was not true as to some fact or facts that show that the purchase was taxable and should not have been certified as being tax exempt. The Department reserves the right to require a copy of the carrier's Interstate Commerce Commission or other Federal Government regulatory agency Certificate of Authority or Illinois Commerce Commission Certificate of Registration (or as much of the certificate as the Department deems adequate to verify the fact that the carrier is an interstate carrier for hire) to be provided whenever the Department deems that to be necessary.~~
- h) ~~Beginning on July 1, 2003 through June 30, 2004, Public Act 93-0023 imposed a new rolling stock exemption test for motor vehicles, trailers, and repair and replacement parts for motor vehicles and trailers.~~
- 1) ~~Motor vehicles:~~
- A) ~~For purposes of this Section, the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code. Because of the commercial distribution fee sales tax exemption provided in Section 130.341 of this Part, purchasers of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are~~

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~~subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] are exempt from tax regardless of whether those vehicles are used in a manner that qualifies for the rolling stock exemption. All other motor vehicles are subject to the provisions of this Section except that such motor vehicles must meet the following test to qualify as rolling stock instead of the previous test set forth in subsection (f). *A motor vehicle must, during a 12-month period, carry persons or property for hire in interstate commerce for 51 percent of its total trips to qualify for the exemption.* [35 ILCS 120/2-51]~~

- ~~B) — Trips by motor vehicles that are only between points in Illinois are not counted as interstate trips when calculating whether the motor vehicle qualifies for the exemption, but such trips are included in the total trips taken within the 12-month period. The trips that are only between points in Illinois are not counted as interstate trips even if those motor vehicles are transporting, for hire, persons whose journeys or property whose shipments originate or terminate outside of Illinois on other carriers. For an interstate trip to qualify, it must be for hire. However, the total amount of trips taken by a motor vehicle within the 12-month period includes trips for hire and those not for hire. An example of a not for hire trip is when a business uses its truck to transport its own merchandise.~~
- ~~C) — Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips taken by that motor vehicle. The Department shall use its best judgment and information to determine the number of trips represented by such mileage. A trip whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip for hire. A trip whereby a motor vehicle or trailer is moving to a location where property or~~

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~~passengers are being loaded for a trip for hire shall be counted as a trip for hire.~~

~~D) — Examples of application of the 51% trips test:~~

~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. The carrier continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (h) for that 12-month period because it made 3 qualifying trips for hire that terminated or originated outside of Illinois and only one intrastate trip, thereby resulting in a percentage of 75% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.~~

~~EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered. The carrier then continues to Gary, Indiana and picks up property for use by that carrier's business. The carrier then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (h) for that 12-month period because it made no qualifying trips for hire that terminated or originated outside of Illinois.~~

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- ~~E) Motor vehicles must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).~~
- ~~F) When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, *the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (h)(1)(F) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when such property is no longer used in a qualifying manner.*~~
- 2) Trailers — For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code. The test provided in subsection (h)(1) of this Section does not apply to trailers.
- 3) Repair and replacement parts for motor vehicles and trailers
- A) Repair and replacement parts for motor vehicles — repair and replacement parts purchased on and after July 1, 2003 must meet the test regarding motor vehicles described in subsection (h)(1) of this Section to qualify for the rolling stock exemption.

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- ~~B) — Repair and replacement parts for trailers — repair and replacement parts purchased on and after July 1, 2003 are not subject to the test provided in subsection (h)(1).~~
- ~~4) — Application of 51% test to motor vehicles and trailers that are currently in a 12-month period under the 15-trip test~~
 - ~~A) — Motor vehicles that were subject to the 15-trip test described in subsection (f) prior to July 1, 2003 will remain subject to the 15-trip test for the remainder of their current 12-month period only if the last 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003, then the new 51% test provided in subsection (h)(1) will apply for such 12-month period. Any 12-month period beginning on or after July 1, 2003 is subject to the 51% test provided in subsection (h)(1).~~
 - ~~B) — Trailers that were subject to the 15-trip test described in subsection (f) prior to July 1, 2003 will remain subject to the 15-trip test for the remainder of their current 12-month period only if the last 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003, then the 15-trip test will no longer apply beginning July 1, 2003.~~
- ~~i) — Beginning on July 1, 2004, Public Act 93-1033 imposed a new rolling stock exemption test for motor vehicles and trailers, and repair and replacement parts for motor vehicles and trailers.~~
 - ~~1) — Motor Vehicles:~~
 - ~~A) — For purposes of this subsection (i), the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].~~
 - ~~B) — Beginning on July 1, 2004, the exemption for motor vehicles used as rolling stock moving in interstate commerce cannot be claimed for motor vehicles whose gross vehicle weight rating is 16,000 pounds or less. Motor vehicles whose gross~~

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~~vehicle weight rating is 16,000 pounds or less that were purchased prior to July 1, 2004 and had qualified for the rolling stock exemption under subsection (f) or (h) of this Section will continue to qualify for the rolling stock exemption as long as those motor vehicles meet the applicable requirements under those subsections until such time as the Department is no longer able to issue a Notice of Tax Liability for the purchase of those motor vehicles. See subsection (e)(1) of this Section.~~

- ~~C) — For purchases of motor vehicles made on and after July 1, 2004, a motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(1)(C), the owner will be deemed to have chosen the mileage method. Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock exemption shall not be changed. [35 ILCS 120/2-51]~~
- ~~D) — Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip or mileage. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip or mileage. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be~~

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~~counted as part of the total trips or mileage taken by that motor vehicle. If the trips method has been chosen for that motor vehicle, the Department shall use its best judgment and information to determine the number of trips represented by such mileage. A movement whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire. The provisions of subsection (d) of this Section will apply to any trip or mileage that occurs on or after July 1, 2004.~~

~~E) Examples of application of the greater than 50% trips test:~~

~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.~~

~~EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient. The truck then continues to Gary, Indiana and picks up property for use by that carrier's business. The truck then returns to Chicago,~~

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~~Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (i) for that 12-month period because those trips resulted in a 0 percentage of qualifying interstate trips for hire.~~

~~F) Example of application of the greater than 50% mileage test:~~

~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from City A in Illinois to City B in Illinois (88 mile movement) where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to City C in Indiana and delivers part of that property in that city (125 mile movement). The truck then continues to City D in Indiana (151 mile movement) and delivers the remainder of the property in that city. The truck then returns empty to City A in Illinois (204 mile movement) from the delivery in City D in Indiana. The truck is considered to have driven a total of 568 qualifying miles. If this were all the miles that the truck drove within the first 12-month period after it was purchased (or was all the mileage that truck drove in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair and replacement parts purchased for the truck would also have qualified for the exemption.~~

~~EXAMPLE 2: If the truck described above in Example 1 had traveled instead a total of 1568 miles during that 12-month period with 1000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption because it only had 568 qualifying miles out of 1568 miles for a 36.22% qualifying percentage. Any repair and replacement parts purchased for the truck would not have qualified for the exemption.~~

2) Trailers:

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- A) ~~For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code; a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and a pole trailer as defined in Section 1-209 of the Illinois Vehicle Code. For purchases of a trailer made on or after July 1, 2004, to qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period.~~
- B) ~~Except as provided in subsection (i)(2)(C), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method to document that those trailers will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(2)(B), the owner will be deemed to have chosen the mileage method.~~
- C) ~~Beginning on July 1, 2004, the owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect to alternatively document the qualifying use of those trailers in the following manner:~~
- ~~i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption;~~
 - ~~ii) if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption; or~~
 - ~~iii) if a group of trailers is dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify under subsection (i)(1) of this Section, then the percentage of those trailers that qualify for the exemption is equal to the percentage of the motor~~

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~~vehicles in the group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (i)(2)(C)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers would have met the test in subsection (i)(2) of this Section.~~

- ~~D) For purposes of this subsection (i), the phrase "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.~~

~~EXAMPLE 1: A trucking company owns 2 trailers that are dedicated to (used exclusively by) the company's 2 trucks. Both these trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. Both the trailers will be considered to have met the requirements for the exemption during those periods.~~

~~EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to (used exclusively by) a subsidiary company's 20 truck fleet. Only 19 of those 20 trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30 trailer group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered to have met the requirements for the exemption during those periods.~~

- 3) Repair and Replacement Parts:

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~~The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month qualifying period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month qualifying period thereafter.~~

~~j) Application of Rolling Stock Test~~

~~1) Motor Vehicles and Trailers~~

~~The test applicable to the purchase of a motor vehicle or trailer will depend upon the test in effect for the first 12-month qualifying period for that motor vehicle or trailer. For motor vehicles and trailers, the test in effect for the first 12-month qualifying period for that motor vehicle or trailer will remain the test for the remaining 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. A change in the rolling stock test in a subsequent 12-month qualifying period will not change the test for the exemption from tax for the purchase of that motor vehicle or trailer. However, a change in the rolling stock test in a subsequent 12-month qualifying period will impact the test used in regards to purchases of repair and replacement parts for that motor vehicle or trailer. See subsection (i)(4)(B).~~

~~EXAMPLE: A motor vehicle is purchased on October 1, 2003 and is licensed and titled on that date. The motor vehicle's first 12-month qualifying period begins on October 1, 2003 and runs through September 30, 2004. The rolling stock test applicable to that motor vehicle for its first 12-month qualifying period is the test set out in subsection (h) of this Section. That test will remain in effect for all subsequent 12-month qualifying periods until such time as the Department is no longer able to issue a Notice of Tax Liability in regards to the purchase of that motor vehicle. The change in the rolling stock test set out in subsection (i) of this Section has no impact on the tests applied to the motor vehicle's subsequent 12-month qualifying periods for purposes of claiming the exemption on the purchase of that motor vehicle.~~

~~2) Repair and Replacement Parts~~

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~~The test applicable to the purchase of repair and replacement parts for a motor vehicle or trailer that is used as rolling stock will depend upon the test in effect during the motor vehicle's or trailer's 12-month qualifying period in which the purchase of the parts was made. If the rolling stock test is changed during a 12-month qualifying period, the test for parts purchased in that 12-month qualifying period will be the test in effect during the majority of that 12-month qualifying period as described in the following chart. See subsections (j)(2)(A)-(C). Repair and replacement parts purchased during a specific 12-month qualifying period will remain subject to the test for that period and subsequent 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. For ease of referencing the changes in the rolling stock tests, the following rolling stock tests described in the specified subsections will be referred to as:~~

~~subsection (f) — 15 trips test
subsection (h) — 51% trips test
subsection (i) — greater than 50% trips or miles test~~

- ~~A) — Prior to January 1, 2003:
If a motor vehicle's or trailer's 12-month qualifying period starts prior to January 1, 2003, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 15 trips test set out in subsection (f) of this Section.~~
- ~~B) — On or after January 1, 2003 but before January 1, 2004:
If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2003, but before January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 51% trips test set out in subsection (h) of this Section.~~
- ~~C) — On or after January 1, 2004:
If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the greater than 50% trips or miles test set out in subsection (i) of this Section.~~

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k) ~~Public Act 95-0528 provides that limousines, purchased on or after August 28, 2007, that would not otherwise qualify for the rolling stock exemption because of the 16,000 pound gross vehicle weight rating limitation described in subsection (i)(1)(B) of this Section, may qualify for the rolling stock exemption if the use of the vehicle otherwise meets the requirements set out in subsection (i) of this Section. This subsection (k) applies only to limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code.~~
(Source: Amended at ~~38-40~~ Ill. Reg. _____, effective _____)