

**SB0859**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**SB0859**

Introduced 2/7/2017, by Sen. Chris Nybo

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. Provides that, for the purpose of calculating the sales factor when allocating business income of persons other than residents, if the purchaser is the United States government, then the sale is a sale of personal property in this State if the purchaser is within the State or the property is shipped from an office, store, warehouse, factory or other place of storage in this State (currently, when the purchaser is the United States government, the sale is in this State only if the property is shipped from an office, store, warehouse, factory or other place of storage in this State). Removes provisions providing that the sale is in this State if the property is shipped from an office, store, warehouse, factory or other place of storage in this State and the purchaser is not taxable in the State of the purchaser. Removes provisions concerning purchasers who are doing business on a premises owned or leased by a person who has independently contracted with the seller for the printing of newspapers, periodicals or books. Removes provisions providing that sales of tangible personal property are not in this State if the seller and purchaser would be members of the same unitary business group but for the fact that either the seller or purchaser is a person with 80% or more of total business activity outside of the United States and the property is purchased for resale.

LRB100 05639 HLH 15653 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 304 as follows:

6 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

7 Sec. 304. Business income of persons other than residents.

8 (a) In general. The business income of a person other than  
9 a resident shall be allocated to this State if such person's  
10 business income is derived solely from this State. If a person  
11 other than a resident derives business income from this State  
12 and one or more other states, then, for tax years ending on or  
13 before December 30, 1998, and except as otherwise provided by  
14 this Section, such person's business income shall be  
15 apportioned to this State by multiplying the income by a  
16 fraction, the numerator of which is the sum of the property  
17 factor (if any), the payroll factor (if any) and 200% of the  
18 sales factor (if any), and the denominator of which is 4  
19 reduced by the number of factors other than the sales factor  
20 which have a denominator of zero and by an additional 2 if the  
21 sales factor has a denominator of zero. For tax years ending on  
22 or after December 31, 1998, and except as otherwise provided by  
23 this Section, persons other than residents who derive business

1 income from this State and one or more other states shall  
2 compute their apportionment factor by weighting their  
3 property, payroll, and sales factors as provided in subsection  
4 (h) of this Section.

5 (1) Property factor.

6 (A) The property factor is a fraction, the numerator of  
7 which is the average value of the person's real and  
8 tangible personal property owned or rented and used in the  
9 trade or business in this State during the taxable year and  
10 the denominator of which is the average value of all the  
11 person's real and tangible personal property owned or  
12 rented and used in the trade or business during the taxable  
13 year.

14 (B) Property owned by the person is valued at its  
15 original cost. Property rented by the person is valued at 8  
16 times the net annual rental rate. Net annual rental rate is  
17 the annual rental rate paid by the person less any annual  
18 rental rate received by the person from sub-rentals.

19 (C) The average value of property shall be determined  
20 by averaging the values at the beginning and ending of the  
21 taxable year but the Director may require the averaging of  
22 monthly values during the taxable year if reasonably  
23 required to reflect properly the average value of the  
24 person's property.

25 (2) Payroll factor.

26 (A) The payroll factor is a fraction, the numerator of

1           which is the total amount paid in this State during the  
2           taxable year by the person for compensation, and the  
3           denominator of which is the total compensation paid  
4           everywhere during the taxable year.

5           (B) Compensation is paid in this State if:

6                 (i) The individual's service is performed entirely  
7                 within this State;

8                 (ii) The individual's service is performed both  
9                 within and without this State, but the service  
10                performed without this State is incidental to the  
11                individual's service performed within this State; or

12                (iii) Some of the service is performed within this  
13                State and either the base of operations, or if there is  
14                no base of operations, the place from which the service  
15                is directed or controlled is within this State, or the  
16                base of operations or the place from which the service  
17                is directed or controlled is not in any state in which  
18                some part of the service is performed, but the  
19                individual's residence is in this State.

20                (iv) Compensation paid to nonresident professional  
21                athletes.

22                (a) General. The Illinois source income of a  
23                nonresident individual who is a member of a  
24                professional athletic team includes the portion of the  
25                individual's total compensation for services performed  
26                as a member of a professional athletic team during the

1 taxable year which the number of duty days spent within  
2 this State performing services for the team in any  
3 manner during the taxable year bears to the total  
4 number of duty days spent both within and without this  
5 State during the taxable year.

6 (b) Travel days. Travel days that do not involve  
7 either a game, practice, team meeting, or other similar  
8 team event are not considered duty days spent in this  
9 State. However, such travel days are considered in the  
10 total duty days spent both within and without this  
11 State.

12 (c) Definitions. For purposes of this subpart  
13 (iv):

14 (1) The term "professional athletic team"  
15 includes, but is not limited to, any professional  
16 baseball, basketball, football, soccer, or hockey  
17 team.

18 (2) The term "member of a professional  
19 athletic team" includes those employees who are  
20 active players, players on the disabled list, and  
21 any other persons required to travel and who travel  
22 with and perform services on behalf of a  
23 professional athletic team on a regular basis.  
24 This includes, but is not limited to, coaches,  
25 managers, and trainers.

26 (3) Except as provided in items (C) and (D) of

1           this subpart (3), the term "duty days" means all  
2           days during the taxable year from the beginning of  
3           the professional athletic team's official  
4           pre-season training period through the last game  
5           in which the team competes or is scheduled to  
6           compete. Duty days shall be counted for the year in  
7           which they occur, including where a team's  
8           official pre-season training period through the  
9           last game in which the team competes or is  
10          scheduled to compete, occurs during more than one  
11          tax year.

12                   (A) Duty days shall also include days on  
13                   which a member of a professional athletic team  
14                   performs service for a team on a date that does  
15                   not fall within the foregoing period (e.g.,  
16                   participation in instructional leagues, the  
17                   "All Star Game", or promotional "caravans").  
18                   Performing a service for a professional  
19                   athletic team includes conducting training and  
20                   rehabilitation activities, when such  
21                   activities are conducted at team facilities.

22                   (B) Also included in duty days are game  
23                   days, practice days, days spent at team  
24                   meetings, promotional caravans, preseason  
25                   training camps, and days served with the team  
26                   through all post-season games in which the team

1 competes or is scheduled to compete.

2 (C) Duty days for any person who joins a  
3 team during the period from the beginning of  
4 the professional athletic team's official  
5 pre-season training period through the last  
6 game in which the team competes, or is  
7 scheduled to compete, shall begin on the day  
8 that person joins the team. Conversely, duty  
9 days for any person who leaves a team during  
10 this period shall end on the day that person  
11 leaves the team. Where a person switches teams  
12 during a taxable year, a separate duty-day  
13 calculation shall be made for the period the  
14 person was with each team.

15 (D) Days for which a member of a  
16 professional athletic team is not compensated  
17 and is not performing services for the team in  
18 any manner, including days when such member of  
19 a professional athletic team has been  
20 suspended without pay and prohibited from  
21 performing any services for the team, shall not  
22 be treated as duty days.

23 (E) Days for which a member of a  
24 professional athletic team is on the disabled  
25 list and does not conduct rehabilitation  
26 activities at facilities of the team, and is

1 not otherwise performing services for the team  
2 in Illinois, shall not be considered duty days  
3 spent in this State. All days on the disabled  
4 list, however, are considered to be included in  
5 total duty days spent both within and without  
6 this State.

7 (4) The term "total compensation for services  
8 performed as a member of a professional athletic  
9 team" means the total compensation received during  
10 the taxable year for services performed:

11 (A) from the beginning of the official  
12 pre-season training period through the last  
13 game in which the team competes or is scheduled  
14 to compete during that taxable year; and

15 (B) during the taxable year on a date which  
16 does not fall within the foregoing period  
17 (e.g., participation in instructional leagues,  
18 the "All Star Game", or promotional caravans).

19 This compensation shall include, but is not  
20 limited to, salaries, wages, bonuses as described  
21 in this subpart, and any other type of compensation  
22 paid during the taxable year to a member of a  
23 professional athletic team for services performed  
24 in that year. This compensation does not include  
25 strike benefits, severance pay, termination pay,  
26 contract or option year buy-out payments,



1 expansion or relocation payments, or any other  
2 payments not related to services performed for the  
3 team.

4 For purposes of this subparagraph, "bonuses"  
5 included in "total compensation for services  
6 performed as a member of a professional athletic  
7 team" subject to the allocation described in  
8 Section 302(c)(1) are: bonuses earned as a result  
9 of play (i.e., performance bonuses) during the  
10 season, including bonuses paid for championship,  
11 playoff or "bowl" games played by a team, or for  
12 selection to all-star league or other honorary  
13 positions; and bonuses paid for signing a  
14 contract, unless the payment of the signing bonus  
15 is not conditional upon the signee playing any  
16 games for the team or performing any subsequent  
17 services for the team or even making the team, the  
18 signing bonus is payable separately from the  
19 salary and any other compensation, and the signing  
20 bonus is nonrefundable.

21 (3) Sales factor.

22 (A) The sales factor is a fraction, the numerator of  
23 which is the total sales of the person in this State during  
24 the taxable year, and the denominator of which is the total  
25 sales of the person everywhere during the taxable year.

26 (B) Sales of tangible personal property are in this

1 State if:

2 (i) The property is delivered or shipped to a  
3 purchaser, ~~other than the United States government,~~  
4 within this State regardless of the f. o. b. point or  
5 other conditions of the sale; or

6 (ii) The property is shipped from an office, store,  
7 warehouse, factory or other place of storage in this  
8 State and ~~either~~ the purchaser is the United States  
9 government ~~or the person is not taxable in the state of~~  
10 ~~the purchaser; provided, however, that premises owned~~  
11 ~~or leased by a person who has independently contracted~~  
12 ~~with the seller for the printing of newspapers,~~  
13 ~~periodicals or books shall not be deemed to be an~~  
14 ~~office, store, warehouse, factory or other place of~~  
15 ~~storage for purposes of this Section. Sales of tangible~~  
16 ~~personal property are not in this State if the seller~~  
17 ~~and purchaser would be members of the same unitary~~  
18 ~~business group but for the fact that either the seller~~  
19 ~~or purchaser is a person with 80% or more of total~~  
20 ~~business activity outside of the United States and the~~  
21 ~~property is purchased for resale.~~

22 (B-1) Patents, copyrights, trademarks, and similar  
23 items of intangible personal property.

24 (i) Gross receipts from the licensing, sale, or  
25 other disposition of a patent, copyright, trademark,  
26 or similar item of intangible personal property, other

1 than gross receipts governed by paragraph (B-7) of this  
2 item (3), are in this State to the extent the item is  
3 utilized in this State during the year the gross  
4 receipts are included in gross income.

5 (ii) Place of utilization.

6 (I) A patent is utilized in a state to the  
7 extent that it is employed in production,  
8 fabrication, manufacturing, or other processing in  
9 the state or to the extent that a patented product  
10 is produced in the state. If a patent is utilized  
11 in more than one state, the extent to which it is  
12 utilized in any one state shall be a fraction equal  
13 to the gross receipts of the licensee or purchaser  
14 from sales or leases of items produced,  
15 fabricated, manufactured, or processed within that  
16 state using the patent and of patented items  
17 produced within that state, divided by the total of  
18 such gross receipts for all states in which the  
19 patent is utilized.

20 (II) A copyright is utilized in a state to the  
21 extent that printing or other publication  
22 originates in the state. If a copyright is utilized  
23 in more than one state, the extent to which it is  
24 utilized in any one state shall be a fraction equal  
25 to the gross receipts from sales or licenses of  
26 materials printed or published in that state

1           divided by the total of such gross receipts for all  
2           states in which the copyright is utilized.

3           (III) Trademarks and other items of intangible  
4           personal property governed by this paragraph (B-1)  
5           are utilized in the state in which the commercial  
6           domicile of the licensee or purchaser is located.

7           (iii) If the state of utilization of an item of  
8           property governed by this paragraph (B-1) cannot be  
9           determined from the taxpayer's books and records or  
10          from the books and records of any person related to the  
11          taxpayer within the meaning of Section 267(b) of the  
12          Internal Revenue Code, 26 U.S.C. 267, the gross  
13          receipts attributable to that item shall be excluded  
14          from both the numerator and the denominator of the  
15          sales factor.

16          (B-2) Gross receipts from the license, sale, or other  
17          disposition of patents, copyrights, trademarks, and  
18          similar items of intangible personal property, other than  
19          gross receipts governed by paragraph (B-7) of this item  
20          (3), may be included in the numerator or denominator of the  
21          sales factor only if gross receipts from licenses, sales,  
22          or other disposition of such items comprise more than 50%  
23          of the taxpayer's total gross receipts included in gross  
24          income during the tax year and during each of the 2  
25          immediately preceding tax years; provided that, when a  
26          taxpayer is a member of a unitary business group, such

1 determination shall be made on the basis of the gross  
2 receipts of the entire unitary business group.

3 (B-5) For taxable years ending on or after December 31,  
4 2008, except as provided in subsections (ii) through (vii),  
5 receipts from the sale of telecommunications service or  
6 mobile telecommunications service are in this State if the  
7 customer's service address is in this State.

8 (i) For purposes of this subparagraph (B-5), the  
9 following terms have the following meanings:

10 "Ancillary services" means services that are  
11 associated with or incidental to the provision of  
12 "telecommunications services", including but not  
13 limited to "detailed telecommunications billing",  
14 "directory assistance", "vertical service", and "voice  
15 mail services".

16 "Air-to-Ground Radiotelephone service" means a  
17 radio service, as that term is defined in 47 CFR 22.99,  
18 in which common carriers are authorized to offer and  
19 provide radio telecommunications service for hire to  
20 subscribers in aircraft.

21 "Call-by-call Basis" means any method of charging  
22 for telecommunications services where the price is  
23 measured by individual calls.

24 "Communications Channel" means a physical or  
25 virtual path of communications over which signals are  
26 transmitted between or among customer channel

1 termination points.

2 "Conference bridging service" means an "ancillary  
3 service" that links two or more participants of an  
4 audio or video conference call and may include the  
5 provision of a telephone number. "Conference bridging  
6 service" does not include the "telecommunications  
7 services" used to reach the conference bridge.

8 "Customer Channel Termination Point" means the  
9 location where the customer either inputs or receives  
10 the communications.

11 "Detailed telecommunications billing service"  
12 means an "ancillary service" of separately stating  
13 information pertaining to individual calls on a  
14 customer's billing statement.

15 "Directory assistance" means an "ancillary  
16 service" of providing telephone number information,  
17 and/or address information.

18 "Home service provider" means the facilities based  
19 carrier or reseller with which the customer contracts  
20 for the provision of mobile telecommunications  
21 services.

22 "Mobile telecommunications service" means  
23 commercial mobile radio service, as defined in Section  
24 20.3 of Title 47 of the Code of Federal Regulations as  
25 in effect on June 1, 1999.

26 "Place of primary use" means the street address

1 representative of where the customer's use of the  
2 telecommunications service primarily occurs, which  
3 must be the residential street address or the primary  
4 business street address of the customer. In the case of  
5 mobile telecommunications services, "place of primary  
6 use" must be within the licensed service area of the  
7 home service provider.

8 "Post-paid telecommunication service" means the  
9 telecommunications service obtained by making a  
10 payment on a call-by-call basis either through the use  
11 of a credit card or payment mechanism such as a bank  
12 card, travel card, credit card, or debit card, or by  
13 charge made to a telephone number which is not  
14 associated with the origination or termination of the  
15 telecommunications service. A post-paid calling  
16 service includes telecommunications service, except a  
17 prepaid wireless calling service, that would be a  
18 prepaid calling service except it is not exclusively a  
19 telecommunication service.

20 "Prepaid telecommunication service" means the  
21 right to access exclusively telecommunications  
22 services, which must be paid for in advance and which  
23 enables the origination of calls using an access number  
24 or authorization code, whether manually or  
25 electronically dialed, and that is sold in  
26 predetermined units or dollars of which the number

1 declines with use in a known amount.

2 "Prepaid Mobile telecommunication service" means a  
3 telecommunications service that provides the right to  
4 utilize mobile wireless service as well as other  
5 non-telecommunication services, including but not  
6 limited to ancillary services, which must be paid for  
7 in advance that is sold in predetermined units or  
8 dollars of which the number declines with use in a  
9 known amount.

10 "Private communication service" means a  
11 telecommunication service that entitles the customer  
12 to exclusive or priority use of a communications  
13 channel or group of channels between or among  
14 termination points, regardless of the manner in which  
15 such channel or channels are connected, and includes  
16 switching capacity, extension lines, stations, and any  
17 other associated services that are provided in  
18 connection with the use of such channel or channels.

19 "Service address" means:

20 (a) The location of the telecommunications  
21 equipment to which a customer's call is charged and  
22 from which the call originates or terminates,  
23 regardless of where the call is billed or paid;

24 (b) If the location in line (a) is not known,  
25 service address means the origination point of the  
26 signal of the telecommunications services first



1 identified by either the seller's  
2 telecommunications system or in information  
3 received by the seller from its service provider  
4 where the system used to transport such signals is  
5 not that of the seller; and

6 (c) If the locations in line (a) and line (b)  
7 are not known, the service address means the  
8 location of the customer's place of primary use.

9 "Telecommunications service" means the electronic  
10 transmission, conveyance, or routing of voice, data,  
11 audio, video, or any other information or signals to a  
12 point, or between or among points. The term  
13 "telecommunications service" includes such  
14 transmission, conveyance, or routing in which computer  
15 processing applications are used to act on the form,  
16 code or protocol of the content for purposes of  
17 transmission, conveyance or routing without regard to  
18 whether such service is referred to as voice over  
19 Internet protocol services or is classified by the  
20 Federal Communications Commission as enhanced or value  
21 added. "Telecommunications service" does not include:

22 (a) Data processing and information services  
23 that allow data to be generated, acquired, stored,  
24 processed, or retrieved and delivered by an  
25 electronic transmission to a purchaser when such  
26 purchaser's primary purpose for the underlying

1 transaction is the processed data or information;

2 (b) Installation or maintenance of wiring or  
3 equipment on a customer's premises;

4 (c) Tangible personal property;

5 (d) Advertising, including but not limited to  
6 directory advertising;

7 (e) Billing and collection services provided  
8 to third parties;

9 (f) Internet access service;

10 (g) Radio and television audio and video  
11 programming services, regardless of the medium,  
12 including the furnishing of transmission,  
13 conveyance and routing of such services by the  
14 programming service provider. Radio and television  
15 audio and video programming services shall include  
16 but not be limited to cable service as defined in  
17 47 USC 522(6) and audio and video programming  
18 services delivered by commercial mobile radio  
19 service providers, as defined in 47 CFR 20.3;

20 (h) "Ancillary services"; or

21 (i) Digital products "delivered  
22 electronically", including but not limited to  
23 software, music, video, reading materials or ring  
24 tones.

25 "Vertical service" means an "ancillary service"  
26 that is offered in connection with one or more

1 "telecommunications services", which offers advanced  
2 calling features that allow customers to identify  
3 callers and to manage multiple calls and call  
4 connections, including "conference bridging services".

5 "Voice mail service" means an "ancillary service"  
6 that enables the customer to store, send or receive  
7 recorded messages. "Voice mail service" does not  
8 include any "vertical services" that the customer may  
9 be required to have in order to utilize the "voice mail  
10 service".

11 (ii) Receipts from the sale of telecommunications  
12 service sold on an individual call-by-call basis are in  
13 this State if either of the following applies:

14 (a) The call both originates and terminates in  
15 this State.

16 (b) The call either originates or terminates  
17 in this State and the service address is located in  
18 this State.

19 (iii) Receipts from the sale of postpaid  
20 telecommunications service at retail are in this State  
21 if the origination point of the telecommunication  
22 signal, as first identified by the service provider's  
23 telecommunication system or as identified by  
24 information received by the seller from its service  
25 provider if the system used to transport  
26 telecommunication signals is not the seller's, is

1 located in this State.

2 (iv) Receipts from the sale of prepaid  
3 telecommunications service or prepaid mobile  
4 telecommunications service at retail are in this State  
5 if the purchaser obtains the prepaid card or similar  
6 means of conveyance at a location in this State.  
7 Receipts from recharging a prepaid telecommunications  
8 service or mobile telecommunications service is in  
9 this State if the purchaser's billing information  
10 indicates a location in this State.

11 (v) Receipts from the sale of private  
12 communication services are in this State as follows:

13 (a) 100% of receipts from charges imposed at  
14 each channel termination point in this State.

15 (b) 100% of receipts from charges for the total  
16 channel mileage between each channel termination  
17 point in this State.

18 (c) 50% of the total receipts from charges for  
19 service segments when those segments are between 2  
20 customer channel termination points, 1 of which is  
21 located in this State and the other is located  
22 outside of this State, which segments are  
23 separately charged.

24 (d) The receipts from charges for service  
25 segments with a channel termination point located  
26 in this State and in two or more other states, and

1           which segments are not separately billed, are in  
2           this State based on a percentage determined by  
3           dividing the number of customer channel  
4           termination points in this State by the total  
5           number of customer channel termination points.

6           (vi) Receipts from charges for ancillary services  
7           for telecommunications service sold to customers at  
8           retail are in this State if the customer's primary  
9           place of use of telecommunications services associated  
10          with those ancillary services is in this State. If the  
11          seller of those ancillary services cannot determine  
12          where the associated telecommunications are located,  
13          then the ancillary services shall be based on the  
14          location of the purchaser.

15          (vii) Receipts to access a carrier's network or  
16          from the sale of telecommunication services or  
17          ancillary services for resale are in this State as  
18          follows:

19                 (a) 100% of the receipts from access fees  
20                 attributable to intrastate telecommunications  
21                 service that both originates and terminates in  
22                 this State.

23                 (b) 50% of the receipts from access fees  
24                 attributable to interstate telecommunications  
25                 service if the interstate call either originates  
26                 or terminates in this State.

1 (c) 100% of the receipts from interstate end  
2 user access line charges, if the customer's  
3 service address is in this State. As used in this  
4 subdivision, "interstate end user access line  
5 charges" includes, but is not limited to, the  
6 surcharge approved by the federal communications  
7 commission and levied pursuant to 47 CFR 69.

8 (d) Gross receipts from sales of  
9 telecommunication services or from ancillary  
10 services for telecommunications services sold to  
11 other telecommunication service providers for  
12 resale shall be sourced to this State using the  
13 apportionment concepts used for non-resale  
14 receipts of telecommunications services if the  
15 information is readily available to make that  
16 determination. If the information is not readily  
17 available, then the taxpayer may use any other  
18 reasonable and consistent method.

19 (B-7) For taxable years ending on or after December 31,  
20 2008, receipts from the sale of broadcasting services are  
21 in this State if the broadcasting services are received in  
22 this State. For purposes of this paragraph (B-7), the  
23 following terms have the following meanings:

24 "Advertising revenue" means consideration received  
25 by the taxpayer in exchange for broadcasting services  
26 or allowing the broadcasting of commercials or

1 announcements in connection with the broadcasting of  
2 film or radio programming, from sponsorships of the  
3 programming, or from product placements in the  
4 programming.

5 "Audience factor" means the ratio that the  
6 audience or subscribers located in this State of a  
7 station, a network, or a cable system bears to the  
8 total audience or total subscribers for that station,  
9 network, or cable system. The audience factor for film  
10 or radio programming shall be determined by reference  
11 to the books and records of the taxpayer or by  
12 reference to published rating statistics provided the  
13 method used by the taxpayer is consistently used from  
14 year to year for this purpose and fairly represents the  
15 taxpayer's activity in this State.

16 "Broadcast" or "broadcasting" or "broadcasting  
17 services" means the transmission or provision of film  
18 or radio programming, whether through the public  
19 airwaves, by cable, by direct or indirect satellite  
20 transmission, or by any other means of communication,  
21 either through a station, a network, or a cable system.

22 "Film" or "film programming" means the broadcast  
23 on television of any and all performances, events, or  
24 productions, including but not limited to news,  
25 sporting events, plays, stories, or other literary,  
26 commercial, educational, or artistic works, either

1 live or through the use of video tape, disc, or any  
2 other type of format or medium. Each episode of a  
3 series of films produced for television shall  
4 constitute separate "film" notwithstanding that the  
5 series relates to the same principal subject and is  
6 produced during one or more tax periods.

7 "Radio" or "radio programming" means the broadcast  
8 on radio of any and all performances, events, or  
9 productions, including but not limited to news,  
10 sporting events, plays, stories, or other literary,  
11 commercial, educational, or artistic works, either  
12 live or through the use of an audio tape, disc, or any  
13 other format or medium. Each episode in a series of  
14 radio programming produced for radio broadcast shall  
15 constitute a separate "radio programming"  
16 notwithstanding that the series relates to the same  
17 principal subject and is produced during one or more  
18 tax periods.

19 (i) In the case of advertising revenue from  
20 broadcasting, the customer is the advertiser and  
21 the service is received in this State if the  
22 commercial domicile of the advertiser is in this  
23 State.

24 (ii) In the case where film or radio  
25 programming is broadcast by a station, a network,  
26 or a cable system for a fee or other remuneration



1 received from the recipient of the broadcast, the  
2 portion of the service that is received in this  
3 State is measured by the portion of the recipients  
4 of the broadcast located in this State.  
5 Accordingly, the fee or other remuneration for  
6 such service that is included in the Illinois  
7 numerator of the sales factor is the total of those  
8 fees or other remuneration received from  
9 recipients in Illinois. For purposes of this  
10 paragraph, a taxpayer may determine the location  
11 of the recipients of its broadcast using the  
12 address of the recipient shown in its contracts  
13 with the recipient or using the billing address of  
14 the recipient in the taxpayer's records.

15 (iii) In the case where film or radio  
16 programming is broadcast by a station, a network,  
17 or a cable system for a fee or other remuneration  
18 from the person providing the programming, the  
19 portion of the broadcast service that is received  
20 by such station, network, or cable system in this  
21 State is measured by the portion of recipients of  
22 the broadcast located in this State. Accordingly,  
23 the amount of revenue related to such an  
24 arrangement that is included in the Illinois  
25 numerator of the sales factor is the total fee or  
26 other total remuneration from the person providing

1 the programming related to that broadcast  
2 multiplied by the Illinois audience factor for  
3 that broadcast.

4 (iv) In the case where film or radio  
5 programming is provided by a taxpayer that is a  
6 network or station to a customer for broadcast in  
7 exchange for a fee or other remuneration from that  
8 customer the broadcasting service is received at  
9 the location of the office of the customer from  
10 which the services were ordered in the regular  
11 course of the customer's trade or business.  
12 Accordingly, in such a case the revenue derived by  
13 the taxpayer that is included in the taxpayer's  
14 Illinois numerator of the sales factor is the  
15 revenue from such customers who receive the  
16 broadcasting service in Illinois.

17 (v) In the case where film or radio programming  
18 is provided by a taxpayer that is not a network or  
19 station to another person for broadcasting in  
20 exchange for a fee or other remuneration from that  
21 person, the broadcasting service is received at  
22 the location of the office of the customer from  
23 which the services were ordered in the regular  
24 course of the customer's trade or business.  
25 Accordingly, in such a case the revenue derived by  
26 the taxpayer that is included in the taxpayer's

1 Illinois numerator of the sales factor is the  
2 revenue from such customers who receive the  
3 broadcasting service in Illinois.

4 (B-8) Gross receipts from winnings under the Illinois  
5 Lottery Law from the assignment of a prize under Section  
6 13.1 of the Illinois Lottery Law are received in this  
7 State. This paragraph (B-8) applies only to taxable years  
8 ending on or after December 31, 2013.

9 (C) For taxable years ending before December 31, 2008,  
10 sales, other than sales governed by paragraphs (B), (B-1),  
11 (B-2), and (B-8) are in this State if:

12 (i) The income-producing activity is performed in  
13 this State; or

14 (ii) The income-producing activity is performed  
15 both within and without this State and a greater  
16 proportion of the income-producing activity is  
17 performed within this State than without this State,  
18 based on performance costs.

19 (C-5) For taxable years ending on or after December 31,  
20 2008, sales, other than sales governed by paragraphs (B),  
21 (B-1), (B-2), (B-5), and (B-7), are in this State if any of  
22 the following criteria are met:

23 (i) Sales from the sale or lease of real property  
24 are in this State if the property is located in this  
25 State.

26 (ii) Sales from the lease or rental of tangible

1 personal property are in this State if the property is  
2 located in this State during the rental period. Sales  
3 from the lease or rental of tangible personal property  
4 that is characteristically moving property, including,  
5 but not limited to, motor vehicles, rolling stock,  
6 aircraft, vessels, or mobile equipment are in this  
7 State to the extent that the property is used in this  
8 State.

9 (iii) In the case of interest, net gains (but not  
10 less than zero) and other items of income from  
11 intangible personal property, the sale is in this State  
12 if:

13 (a) in the case of a taxpayer who is a dealer  
14 in the item of intangible personal property within  
15 the meaning of Section 475 of the Internal Revenue  
16 Code, the income or gain is received from a  
17 customer in this State. For purposes of this  
18 subparagraph, a customer is in this State if the  
19 customer is an individual, trust or estate who is a  
20 resident of this State and, for all other  
21 customers, if the customer's commercial domicile  
22 is in this State. Unless the dealer has actual  
23 knowledge of the residence or commercial domicile  
24 of a customer during a taxable year, the customer  
25 shall be deemed to be a customer in this State if  
26 the billing address of the customer, as shown in

1           the records of the dealer, is in this State; or

2           (b) in all other cases, if the  
3           income-producing activity of the taxpayer is  
4           performed in this State or, if the  
5           income-producing activity of the taxpayer is  
6           performed both within and without this State, if a  
7           greater proportion of the income-producing  
8           activity of the taxpayer is performed within this  
9           State than in any other state, based on performance  
10          costs.

11          (iv) Sales of services are in this State if the  
12          services are received in this State. For the purposes  
13          of this section, gross receipts from the performance of  
14          services provided to a corporation, partnership, or  
15          trust may only be attributed to a state where that  
16          corporation, partnership, or trust has a fixed place of  
17          business. If the state where the services are received  
18          is not readily determinable or is a state where the  
19          corporation, partnership, or trust receiving the  
20          service does not have a fixed place of business, the  
21          services shall be deemed to be received at the location  
22          of the office of the customer from which the services  
23          were ordered in the regular course of the customer's  
24          trade or business. If the ordering office cannot be  
25          determined, the services shall be deemed to be received  
26          at the office of the customer to which the services are

1 billed. If the taxpayer is not taxable in the state in  
2 which the services are received, the sale must be  
3 excluded from both the numerator and the denominator of  
4 the sales factor. The Department shall adopt rules  
5 prescribing where specific types of service are  
6 received, including, but not limited to, publishing,  
7 and utility service.

8 (D) For taxable years ending on or after December 31,  
9 1995, the following items of income shall not be included  
10 in the numerator or denominator of the sales factor:  
11 dividends; amounts included under Section 78 of the  
12 Internal Revenue Code; and Subpart F income as defined in  
13 Section 952 of the Internal Revenue Code. No inference  
14 shall be drawn from the enactment of this paragraph (D) in  
15 construing this Section for taxable years ending before  
16 December 31, 1995.

17 (E) Paragraphs (B-1) and (B-2) shall apply to tax years  
18 ending on or after December 31, 1999, provided that a  
19 taxpayer may elect to apply the provisions of these  
20 paragraphs to prior tax years. Such election shall be made  
21 in the form and manner prescribed by the Department, shall  
22 be irrevocable, and shall apply to all tax years; provided  
23 that, if a taxpayer's Illinois income tax liability for any  
24 tax year, as assessed under Section 903 prior to January 1,  
25 1999, was computed in a manner contrary to the provisions  
26 of paragraphs (B-1) or (B-2), no refund shall be payable to

1 the taxpayer for that tax year to the extent such refund is  
2 the result of applying the provisions of paragraph (B-1) or  
3 (B-2) retroactively. In the case of a unitary business  
4 group, such election shall apply to all members of such  
5 group for every tax year such group is in existence, but  
6 shall not apply to any taxpayer for any period during which  
7 that taxpayer is not a member of such group.

8 (b) Insurance companies.

9 (1) In general. Except as otherwise provided by  
10 paragraph (2), business income of an insurance company for  
11 a taxable year shall be apportioned to this State by  
12 multiplying such income by a fraction, the numerator of  
13 which is the direct premiums written for insurance upon  
14 property or risk in this State, and the denominator of  
15 which is the direct premiums written for insurance upon  
16 property or risk everywhere. For purposes of this  
17 subsection, the term "direct premiums written" means the  
18 total amount of direct premiums written, assessments and  
19 annuity considerations as reported for the taxable year on  
20 the annual statement filed by the company with the Illinois  
21 Director of Insurance in the form approved by the National  
22 Convention of Insurance Commissioners or such other form as  
23 may be prescribed in lieu thereof.

24 (2) Reinsurance. If the principal source of premiums  
25 written by an insurance company consists of premiums for  
26 reinsurance accepted by it, the business income of such

1 company shall be apportioned to this State by multiplying  
2 such income by a fraction, the numerator of which is the  
3 sum of (i) direct premiums written for insurance upon  
4 property or risk in this State, plus (ii) premiums written  
5 for reinsurance accepted in respect of property or risk in  
6 this State, and the denominator of which is the sum of  
7 (iii) direct premiums written for insurance upon property  
8 or risk everywhere, plus (iv) premiums written for  
9 reinsurance accepted in respect of property or risk  
10 everywhere. For purposes of this paragraph, premiums  
11 written for reinsurance accepted in respect of property or  
12 risk in this State, whether or not otherwise determinable,  
13 may, at the election of the company, be determined on the  
14 basis of the proportion which premiums written for  
15 reinsurance accepted from companies commercially domiciled  
16 in Illinois bears to premiums written for reinsurance  
17 accepted from all sources, or, alternatively, in the  
18 proportion which the sum of the direct premiums written for  
19 insurance upon property or risk in this State by each  
20 ceding company from which reinsurance is accepted bears to  
21 the sum of the total direct premiums written by each such  
22 ceding company for the taxable year. The election made by a  
23 company under this paragraph for its first taxable year  
24 ending on or after December 31, 2011, shall be binding for  
25 that company for that taxable year and for all subsequent  
26 taxable years, and may be altered only with the written



1 permission of the Department, which shall not be  
2 unreasonably withheld.

3 (c) Financial organizations.

4 (1) In general. For taxable years ending before  
5 December 31, 2008, business income of a financial  
6 organization shall be apportioned to this State by  
7 multiplying such income by a fraction, the numerator of  
8 which is its business income from sources within this  
9 State, and the denominator of which is its business income  
10 from all sources. For the purposes of this subsection, the  
11 business income of a financial organization from sources  
12 within this State is the sum of the amounts referred to in  
13 subparagraphs (A) through (E) following, but excluding the  
14 adjusted income of an international banking facility as  
15 determined in paragraph (2):

16 (A) Fees, commissions or other compensation for  
17 financial services rendered within this State;

18 (B) Gross profits from trading in stocks, bonds or  
19 other securities managed within this State;

20 (C) Dividends, and interest from Illinois  
21 customers, which are received within this State;

22 (D) Interest charged to customers at places of  
23 business maintained within this State for carrying  
24 debit balances of margin accounts, without deduction  
25 of any costs incurred in carrying such accounts; and

26 (E) Any other gross income resulting from the

1 operation as a financial organization within this  
2 State. In computing the amounts referred to in  
3 paragraphs (A) through (E) of this subsection, any  
4 amount received by a member of an affiliated group  
5 (determined under Section 1504(a) of the Internal  
6 Revenue Code but without reference to whether any such  
7 corporation is an "includible corporation" under  
8 Section 1504(b) of the Internal Revenue Code) from  
9 another member of such group shall be included only to  
10 the extent such amount exceeds expenses of the  
11 recipient directly related thereto.

12 (2) International Banking Facility. For taxable years  
13 ending before December 31, 2008:

14 (A) Adjusted Income. The adjusted income of an  
15 international banking facility is its income reduced  
16 by the amount of the floor amount.

17 (B) Floor Amount. The floor amount shall be the  
18 amount, if any, determined by multiplying the income of  
19 the international banking facility by a fraction, not  
20 greater than one, which is determined as follows:

21 (i) The numerator shall be:

22 The average aggregate, determined on a  
23 quarterly basis, of the financial organization's  
24 loans to banks in foreign countries, to foreign  
25 domiciled borrowers (except where secured  
26 primarily by real estate) and to foreign

1 governments and other foreign official  
2 institutions, as reported for its branches,  
3 agencies and offices within the state on its  
4 "Consolidated Report of Condition", Schedule A,  
5 Lines 2.c., 5.b., and 7.a., which was filed with  
6 the Federal Deposit Insurance Corporation and  
7 other regulatory authorities, for the year 1980,  
8 minus

9 The average aggregate, determined on a  
10 quarterly basis, of such loans (other than loans of  
11 an international banking facility), as reported by  
12 the financial institution for its branches,  
13 agencies and offices within the state, on the  
14 corresponding Schedule and lines of the  
15 Consolidated Report of Condition for the current  
16 taxable year, provided, however, that in no case  
17 shall the amount determined in this clause (the  
18 subtrahend) exceed the amount determined in the  
19 preceding clause (the minuend); and

20 (ii) the denominator shall be the average  
21 aggregate, determined on a quarterly basis, of the  
22 international banking facility's loans to banks in  
23 foreign countries, to foreign domiciled borrowers  
24 (except where secured primarily by real estate)  
25 and to foreign governments and other foreign  
26 official institutions, which were recorded in its

1 financial accounts for the current taxable year.

2 (C) Change to Consolidated Report of Condition and  
3 in Qualification. In the event the Consolidated Report  
4 of Condition which is filed with the Federal Deposit  
5 Insurance Corporation and other regulatory authorities  
6 is altered so that the information required for  
7 determining the floor amount is not found on Schedule  
8 A, lines 2.c., 5.b. and 7.a., the financial institution  
9 shall notify the Department and the Department may, by  
10 regulations or otherwise, prescribe or authorize the  
11 use of an alternative source for such information. The  
12 financial institution shall also notify the Department  
13 should its international banking facility fail to  
14 qualify as such, in whole or in part, or should there  
15 be any amendment or change to the Consolidated Report  
16 of Condition, as originally filed, to the extent such  
17 amendment or change alters the information used in  
18 determining the floor amount.

19 (3) For taxable years ending on or after December 31,  
20 2008, the business income of a financial organization shall  
21 be apportioned to this State by multiplying such income by  
22 a fraction, the numerator of which is its gross receipts  
23 from sources in this State or otherwise attributable to  
24 this State's marketplace and the denominator of which is  
25 its gross receipts everywhere during the taxable year.  
26 "Gross receipts" for purposes of this subparagraph (3)

1 means gross income, including net taxable gain on  
2 disposition of assets, including securities and money  
3 market instruments, when derived from transactions and  
4 activities in the regular course of the financial  
5 organization's trade or business. The following examples  
6 are illustrative:

7 (i) Receipts from the lease or rental of real or  
8 tangible personal property are in this State if the  
9 property is located in this State during the rental  
10 period. Receipts from the lease or rental of tangible  
11 personal property that is characteristically moving  
12 property, including, but not limited to, motor  
13 vehicles, rolling stock, aircraft, vessels, or mobile  
14 equipment are from sources in this State to the extent  
15 that the property is used in this State.

16 (ii) Interest income, commissions, fees, gains on  
17 disposition, and other receipts from assets in the  
18 nature of loans that are secured primarily by real  
19 estate or tangible personal property are from sources  
20 in this State if the security is located in this State.

21 (iii) Interest income, commissions, fees, gains on  
22 disposition, and other receipts from consumer loans  
23 that are not secured by real or tangible personal  
24 property are from sources in this State if the debtor  
25 is a resident of this State.

26 (iv) Interest income, commissions, fees, gains on

1 disposition, and other receipts from commercial loans  
2 and installment obligations that are not secured by  
3 real or tangible personal property are from sources in  
4 this State if the proceeds of the loan are to be  
5 applied in this State. If it cannot be determined where  
6 the funds are to be applied, the income and receipts  
7 are from sources in this State if the office of the  
8 borrower from which the loan was negotiated in the  
9 regular course of business is located in this State. If  
10 the location of this office cannot be determined, the  
11 income and receipts shall be excluded from the  
12 numerator and denominator of the sales factor.

13 (v) Interest income, fees, gains on disposition,  
14 service charges, merchant discount income, and other  
15 receipts from credit card receivables are from sources  
16 in this State if the card charges are regularly billed  
17 to a customer in this State.

18 (vi) Receipts from the performance of services,  
19 including, but not limited to, fiduciary, advisory,  
20 and brokerage services, are in this State if the  
21 services are received in this State within the meaning  
22 of subparagraph (a) (3) (C-5) (iv) of this Section.

23 (vii) Receipts from the issuance of travelers  
24 checks and money orders are from sources in this State  
25 if the checks and money orders are issued from a  
26 location within this State.

1           (viii) Receipts from investment assets and  
2 activities and trading assets and activities are  
3 included in the receipts factor as follows:

4           (1) Interest, dividends, net gains (but not  
5 less than zero) and other income from investment  
6 assets and activities from trading assets and  
7 activities shall be included in the receipts  
8 factor. Investment assets and activities and  
9 trading assets and activities include but are not  
10 limited to: investment securities; trading account  
11 assets; federal funds; securities purchased and  
12 sold under agreements to resell or repurchase;  
13 options; futures contracts; forward contracts;  
14 notional principal contracts such as swaps;  
15 equities; and foreign currency transactions. With  
16 respect to the investment and trading assets and  
17 activities described in subparagraphs (A) and (B)  
18 of this paragraph, the receipts factor shall  
19 include the amounts described in such  
20 subparagraphs.

21           (A) The receipts factor shall include the  
22 amount by which interest from federal funds  
23 sold and securities purchased under resale  
24 agreements exceeds interest expense on federal  
25 funds purchased and securities sold under  
26 repurchase agreements.

1 (B) The receipts factor shall include the  
2 amount by which interest, dividends, gains and  
3 other income from trading assets and  
4 activities, including but not limited to  
5 assets and activities in the matched book, in  
6 the arbitrage book, and foreign currency  
7 transactions, exceed amounts paid in lieu of  
8 interest, amounts paid in lieu of dividends,  
9 and losses from such assets and activities.

10 (2) The numerator of the receipts factor  
11 includes interest, dividends, net gains (but not  
12 less than zero), and other income from investment  
13 assets and activities and from trading assets and  
14 activities described in paragraph (1) of this  
15 subsection that are attributable to this State.

16 (A) The amount of interest, dividends, net  
17 gains (but not less than zero), and other  
18 income from investment assets and activities  
19 in the investment account to be attributed to  
20 this State and included in the numerator is  
21 determined by multiplying all such income from  
22 such assets and activities by a fraction, the  
23 numerator of which is the gross income from  
24 such assets and activities which are properly  
25 assigned to a fixed place of business of the  
26 taxpayer within this State and the denominator



1 of which is the gross income from all such  
2 assets and activities.

3 (B) The amount of interest from federal  
4 funds sold and purchased and from securities  
5 purchased under resale agreements and  
6 securities sold under repurchase agreements  
7 attributable to this State and included in the  
8 numerator is determined by multiplying the  
9 amount described in subparagraph (A) of  
10 paragraph (1) of this subsection from such  
11 funds and such securities by a fraction, the  
12 numerator of which is the gross income from  
13 such funds and such securities which are  
14 properly assigned to a fixed place of business  
15 of the taxpayer within this State and the  
16 denominator of which is the gross income from  
17 all such funds and such securities.

18 (C) The amount of interest, dividends,  
19 gains, and other income from trading assets and  
20 activities, including but not limited to  
21 assets and activities in the matched book, in  
22 the arbitrage book and foreign currency  
23 transactions (but excluding amounts described  
24 in subparagraphs (A) or (B) of this paragraph),  
25 attributable to this State and included in the  
26 numerator is determined by multiplying the

1 amount described in subparagraph (B) of  
2 paragraph (1) of this subsection by a fraction,  
3 the numerator of which is the gross income from  
4 such trading assets and activities which are  
5 properly assigned to a fixed place of business  
6 of the taxpayer within this State and the  
7 denominator of which is the gross income from  
8 all such assets and activities.

9 (D) Properly assigned, for purposes of  
10 this paragraph (2) of this subsection, means  
11 the investment or trading asset or activity is  
12 assigned to the fixed place of business with  
13 which it has a preponderance of substantive  
14 contacts. An investment or trading asset or  
15 activity assigned by the taxpayer to a fixed  
16 place of business without the State shall be  
17 presumed to have been properly assigned if:

18 (i) the taxpayer has assigned, in the  
19 regular course of its business, such asset  
20 or activity on its records to a fixed place  
21 of business consistent with federal or  
22 state regulatory requirements;

23 (ii) such assignment on its records is  
24 based upon substantive contacts of the  
25 asset or activity to such fixed place of  
26 business; and

1 (iii) the taxpayer uses such records  
2 reflecting assignment of such assets or  
3 activities for the filing of all state and  
4 local tax returns for which an assignment  
5 of such assets or activities to a fixed  
6 place of business is required.

7 (E) The presumption of proper assignment  
8 of an investment or trading asset or activity  
9 provided in subparagraph (D) of paragraph (2)  
10 of this subsection may be rebutted upon a  
11 showing by the Department, supported by a  
12 preponderance of the evidence, that the  
13 preponderance of substantive contacts  
14 regarding such asset or activity did not occur  
15 at the fixed place of business to which it was  
16 assigned on the taxpayer's records. If the  
17 fixed place of business that has a  
18 preponderance of substantive contacts cannot  
19 be determined for an investment or trading  
20 asset or activity to which the presumption in  
21 subparagraph (D) of paragraph (2) of this  
22 subsection does not apply or with respect to  
23 which that presumption has been rebutted, that  
24 asset or activity is properly assigned to the  
25 state in which the taxpayer's commercial  
26 domicile is located. For purposes of this

1           subparagraph (E), it shall be presumed,  
2           subject to rebuttal, that taxpayer's  
3           commercial domicile is in the state of the  
4           United States or the District of Columbia to  
5           which the greatest number of employees are  
6           regularly connected with the management of the  
7           investment or trading income or out of which  
8           they are working, irrespective of where the  
9           services of such employees are performed, as of  
10          the last day of the taxable year.

11           (4) (Blank).

12           (5) (Blank).

13           (c-1) Federally regulated exchanges. For taxable years  
14          ending on or after December 31, 2012, business income of a  
15          federally regulated exchange shall, at the option of the  
16          federally regulated exchange, be apportioned to this State by  
17          multiplying such income by a fraction, the numerator of which  
18          is its business income from sources within this State, and the  
19          denominator of which is its business income from all sources.  
20          For purposes of this subsection, the business income within  
21          this State of a federally regulated exchange is the sum of the  
22          following:

23           (1) Receipts attributable to transactions executed on  
24          a physical trading floor if that physical trading floor is  
25          located in this State.

26           (2) Receipts attributable to all other matching,

1 execution, or clearing transactions, including without  
2 limitation receipts from the provision of matching,  
3 execution, or clearing services to another entity,  
4 multiplied by (i) for taxable years ending on or after  
5 December 31, 2012 but before December 31, 2013, 63.77%; and  
6 (ii) for taxable years ending on or after December 31,  
7 2013, 27.54%.

8 (3) All other receipts not governed by subparagraphs  
9 (1) or (2) of this subsection (c-1), to the extent the  
10 receipts would be characterized as "sales in this State"  
11 under item (3) of subsection (a) of this Section.

12 "Federally regulated exchange" means (i) a "registered  
13 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),  
14 or (C), (ii) an "exchange" or "clearing agency" within the  
15 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such  
16 entities regulated under any successor regulatory structure to  
17 the foregoing, and (iv) all taxpayers who are members of the  
18 same unitary business group as a federally regulated exchange,  
19 determined without regard to the prohibition in Section  
20 1501(a) (27) of this Act against including in a unitary business  
21 group taxpayers who are ordinarily required to apportion  
22 business income under different subsections of this Section;  
23 provided that this subparagraph (iv) shall apply only if 50% or  
24 more of the business receipts of the unitary business group  
25 determined by application of this subparagraph (iv) for the  
26 taxable year are attributable to the matching, execution, or

1 clearing of transactions conducted by an entity described in  
2 subparagraph (i), (ii), or (iii) of this paragraph.

3 In no event shall the Illinois apportionment percentage  
4 computed in accordance with this subsection (c-1) for any  
5 taxpayer for any tax year be less than the Illinois  
6 apportionment percentage computed under this subsection (c-1)  
7 for that taxpayer for the first full tax year ending on or  
8 after December 31, 2013 for which this subsection (c-1) applied  
9 to the taxpayer.

10 (d) Transportation services. For taxable years ending  
11 before December 31, 2008, business income derived from  
12 furnishing transportation services shall be apportioned to  
13 this State in accordance with paragraphs (1) and (2):

14 (1) Such business income (other than that derived from  
15 transportation by pipeline) shall be apportioned to this  
16 State by multiplying such income by a fraction, the  
17 numerator of which is the revenue miles of the person in  
18 this State, and the denominator of which is the revenue  
19 miles of the person everywhere. For purposes of this  
20 paragraph, a revenue mile is the transportation of 1  
21 passenger or 1 net ton of freight the distance of 1 mile  
22 for a consideration. Where a person is engaged in the  
23 transportation of both passengers and freight, the  
24 fraction above referred to shall be determined by means of  
25 an average of the passenger revenue mile fraction and the  
26 freight revenue mile fraction, weighted to reflect the

1 person's

2 (A) relative railway operating income from total  
3 passenger and total freight service, as reported to the  
4 Interstate Commerce Commission, in the case of  
5 transportation by railroad, and

6 (B) relative gross receipts from passenger and  
7 freight transportation, in case of transportation  
8 other than by railroad.

9 (2) Such business income derived from transportation  
10 by pipeline shall be apportioned to this State by  
11 multiplying such income by a fraction, the numerator of  
12 which is the revenue miles of the person in this State, and  
13 the denominator of which is the revenue miles of the person  
14 everywhere. For the purposes of this paragraph, a revenue  
15 mile is the transportation by pipeline of 1 barrel of oil,  
16 1,000 cubic feet of gas, or of any specified quantity of  
17 any other substance, the distance of 1 mile for a  
18 consideration.

19 (3) For taxable years ending on or after December 31,  
20 2008, business income derived from providing  
21 transportation services other than airline services shall  
22 be apportioned to this State by using a fraction, (a) the  
23 numerator of which shall be (i) all receipts from any  
24 movement or shipment of people, goods, mail, oil, gas, or  
25 any other substance (other than by airline) that both  
26 originates and terminates in this State, plus (ii) that

1 portion of the person's gross receipts from movements or  
2 shipments of people, goods, mail, oil, gas, or any other  
3 substance (other than by airline) that originates in one  
4 state or jurisdiction and terminates in another state or  
5 jurisdiction, that is determined by the ratio that the  
6 miles traveled in this State bears to total miles  
7 everywhere and (b) the denominator of which shall be all  
8 revenue derived from the movement or shipment of people,  
9 goods, mail, oil, gas, or any other substance (other than  
10 by airline). Where a taxpayer is engaged in the  
11 transportation of both passengers and freight, the  
12 fraction above referred to shall first be determined  
13 separately for passenger miles and freight miles. Then an  
14 average of the passenger miles fraction and the freight  
15 miles fraction shall be weighted to reflect the taxpayer's:

16 (A) relative railway operating income from total  
17 passenger and total freight service, as reported to the  
18 Surface Transportation Board, in the case of  
19 transportation by railroad; and

20 (B) relative gross receipts from passenger and  
21 freight transportation, in case of transportation  
22 other than by railroad.

23 (4) For taxable years ending on or after December 31,  
24 2008, business income derived from furnishing airline  
25 transportation services shall be apportioned to this State  
26 by multiplying such income by a fraction, the numerator of



1           which is the revenue miles of the person in this State, and  
2           the denominator of which is the revenue miles of the person  
3           everywhere. For purposes of this paragraph, a revenue mile  
4           is the transportation of one passenger or one net ton of  
5           freight the distance of one mile for a consideration. If a  
6           person is engaged in the transportation of both passengers  
7           and freight, the fraction above referred to shall be  
8           determined by means of an average of the passenger revenue  
9           mile fraction and the freight revenue mile fraction,  
10          weighted to reflect the person's relative gross receipts  
11          from passenger and freight airline transportation.

12          (e) Combined apportionment. Where 2 or more persons are  
13          engaged in a unitary business as described in subsection  
14          (a) (27) of Section 1501, a part of which is conducted in this  
15          State by one or more members of the group, the business income  
16          attributable to this State by any such member or members shall  
17          be apportioned by means of the combined apportionment method.

18          (f) Alternative allocation. If the allocation and  
19          apportionment provisions of subsections (a) through (e) and of  
20          subsection (h) do not, for taxable years ending before December  
21          31, 2008, fairly represent the extent of a person's business  
22          activity in this State, or, for taxable years ending on or  
23          after December 31, 2008, fairly represent the market for the  
24          person's goods, services, or other sources of business income,  
25          the person may petition for, or the Director may, without a  
26          petition, permit or require, in respect of all or any part of

1 the person's business activity, if reasonable:

2 (1) Separate accounting;

3 (2) The exclusion of any one or more factors;

4 (3) The inclusion of one or more additional factors  
5 which will fairly represent the person's business  
6 activities or market in this State; or

7 (4) The employment of any other method to effectuate an  
8 equitable allocation and apportionment of the person's  
9 business income.

10 (g) Cross reference. For allocation of business income by  
11 residents, see Section 301(a).

12 (h) For tax years ending on or after December 31, 1998, the  
13 apportionment factor of persons who apportion their business  
14 income to this State under subsection (a) shall be equal to:

15 (1) for tax years ending on or after December 31, 1998  
16 and before December 31, 1999,  $16 \frac{2}{3}\%$  of the property  
17 factor plus  $16 \frac{2}{3}\%$  of the payroll factor plus  $66 \frac{2}{3}\%$  of  
18 the sales factor;

19 (2) for tax years ending on or after December 31, 1999  
20 and before December 31, 2000,  $8 \frac{1}{3}\%$  of the property factor  
21 plus  $8 \frac{1}{3}\%$  of the payroll factor plus  $83 \frac{1}{3}\%$  of the sales  
22 factor;

23 (3) for tax years ending on or after December 31, 2000,  
24 the sales factor.

25 If, in any tax year ending on or after December 31, 1998 and  
26 before December 31, 2000, the denominator of the payroll,

1 property, or sales factor is zero, the apportionment factor  
2 computed in paragraph (1) or (2) of this subsection for that  
3 year shall be divided by an amount equal to 100% minus the  
4 percentage weight given to each factor whose denominator is  
5 equal to zero.

6 (Source: P.A. 98-478, eff. 1-1-14; 98-496, eff. 1-1-14; 98-756,  
7 eff. 7-16-14; 99-642, eff. 7-28-16; revised 11-14-16.)