



Sen. Toi W. Hutchinson

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1 AMENDMENT TO HOUSE BILL 3096

2 AMENDMENT NO. _____. Amend House Bill 3096 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 10. AMENDATORY PROVISIONS

5 Section 10-3. The State Finance Act is amended by changing
6 Section 6z-81 as follows:

7 (30 ILCS 105/6z-81)

8 Sec. 6z-81. Healthcare Provider Relief Fund.

9 (a) There is created in the State treasury a special fund
10 to be known as the Healthcare Provider Relief Fund.

11 (b) The Fund is created for the purpose of receiving and
12 disbursing moneys in accordance with this Section.
13 Disbursements from the Fund shall be made only as follows:

14 (1) Subject to appropriation, for payment by the
15 Department of Healthcare and Family Services or by the

1 Department of Human Services of medical bills and related
2 expenses, including administrative expenses, for which the
3 State is responsible under Titles XIX and XXI of the Social
4 Security Act, the Illinois Public Aid Code, the Children's
5 Health Insurance Program Act, the Covering ALL KIDS Health
6 Insurance Act, and the Long Term Acute Care Hospital
7 Quality Improvement Transfer Program Act.

8 (2) For repayment of funds borrowed from other State
9 funds or from outside sources, including interest thereon.

10 (3) For State fiscal years 2017, 2018, and 2019, for
11 making payments to the human poison control center pursuant
12 to Section 12-4.105 of the Illinois Public Aid Code.

13 (c) The Fund shall consist of the following:

14 (1) Moneys received by the State from short-term
15 borrowing pursuant to the Short Term Borrowing Act on or
16 after the effective date of Public Act 96-820.

17 (2) All federal matching funds received by the Illinois
18 Department of Healthcare and Family Services as a result of
19 expenditures made by the Department that are attributable
20 to moneys deposited in the Fund.

21 (3) All federal matching funds received by the Illinois
22 Department of Healthcare and Family Services as a result of
23 federal approval of Title XIX State plan amendment
24 transmittal number 07-09.

25 (3.5) Proceeds from the assessment authorized under
26 Article V-H of the Public Aid Code.

1 (4) All other moneys received for the Fund from any
2 other source, including interest earned thereon.

3 (5) All federal matching funds received by the Illinois
4 Department of Healthcare and Family Services as a result of
5 expenditures made by the Department for Medical Assistance
6 from the General Revenue Fund, the Tobacco Settlement
7 Recovery Fund, the Long-Term Care Provider Fund, and the
8 Drug Rebate Fund related to individuals eligible for
9 medical assistance pursuant to the Patient Protection and
10 Affordable Care Act (P.L. 111-148) and Section 5-2 of the
11 Illinois Public Aid Code.

12 (d) In addition to any other transfers that may be provided
13 for by law, on the effective date of Public Act 97-44, or as
14 soon thereafter as practical, the State Comptroller shall
15 direct and the State Treasurer shall transfer the sum of
16 \$365,000,000 from the General Revenue Fund into the Healthcare
17 Provider Relief Fund.

18 (e) In addition to any other transfers that may be provided
19 for by law, on July 1, 2011, or as soon thereafter as
20 practical, the State Comptroller shall direct and the State
21 Treasurer shall transfer the sum of \$160,000,000 from the
22 General Revenue Fund to the Healthcare Provider Relief Fund.

23 (f) Notwithstanding any other State law to the contrary,
24 and in addition to any other transfers that may be provided for
25 by law, the State Comptroller shall order transferred and the
26 State Treasurer shall transfer \$500,000,000 to the Healthcare

1 Provider Relief Fund from the General Revenue Fund in equal
2 monthly installments of \$100,000,000, with the first transfer
3 to be made on July 1, 2012, or as soon thereafter as practical,
4 and with each of the remaining transfers to be made on August
5 1, 2012, September 1, 2012, October 1, 2012, and November 1,
6 2012, or as soon thereafter as practical. This transfer may
7 assist the Department of Healthcare and Family Services in
8 improving Medical Assistance bill processing timeframes or in
9 meeting the possible requirements of Senate Bill 3397, or other
10 similar legislation, of the 97th General Assembly should it
11 become law.

12 (g) Notwithstanding any other State law to the contrary,
13 and in addition to any other transfers that may be provided for
14 by law, on July 1, 2013, or as soon thereafter as may be
15 practical, the State Comptroller shall direct and the State
16 Treasurer shall transfer the sum of \$601,000,000 from the
17 General Revenue Fund to the Healthcare Provider Relief Fund.

18 (Source: P.A. 99-516, eff. 6-30-16; 100-587, eff. 6-4-18.)

19 Section 10-5. The Illinois Income Tax Act is amended by
20 changing Section 203 as follows:

21 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

22 Sec. 203. Base income defined.

23 (a) Individuals.

24 (1) In general. In the case of an individual, base

1 income means an amount equal to the taxpayer's adjusted
2 gross income for the taxable year as modified by paragraph
3 (2).

4 (2) Modifications. The adjusted gross income referred
5 to in paragraph (1) shall be modified by adding thereto the
6 sum of the following amounts:

7 (A) An amount equal to all amounts paid or accrued
8 to the taxpayer as interest or dividends during the
9 taxable year to the extent excluded from gross income
10 in the computation of adjusted gross income, except
11 stock dividends of qualified public utilities
12 described in Section 305(e) of the Internal Revenue
13 Code;

14 (B) An amount equal to the amount of tax imposed by
15 this Act to the extent deducted from gross income in
16 the computation of adjusted gross income for the
17 taxable year;

18 (C) An amount equal to the amount received during
19 the taxable year as a recovery or refund of real
20 property taxes paid with respect to the taxpayer's
21 principal residence under the Revenue Act of 1939 and
22 for which a deduction was previously taken under
23 subparagraph (L) of this paragraph (2) prior to July 1,
24 1991, the retrospective application date of Article 4
25 of Public Act 87-17. In the case of multi-unit or
26 multi-use structures and farm dwellings, the taxes on

1 the taxpayer's principal residence shall be that
2 portion of the total taxes for the entire property
3 which is attributable to such principal residence;

4 (D) An amount equal to the amount of the capital
5 gain deduction allowable under the Internal Revenue
6 Code, to the extent deducted from gross income in the
7 computation of adjusted gross income;

8 (D-5) An amount, to the extent not included in
9 adjusted gross income, equal to the amount of money
10 withdrawn by the taxpayer in the taxable year from a
11 medical care savings account and the interest earned on
12 the account in the taxable year of a withdrawal
13 pursuant to subsection (b) of Section 20 of the Medical
14 Care Savings Account Act or subsection (b) of Section
15 20 of the Medical Care Savings Account Act of 2000;

16 (D-10) For taxable years ending after December 31,
17 1997, an amount equal to any eligible remediation costs
18 that the individual deducted in computing adjusted
19 gross income and for which the individual claims a
20 credit under subsection (l) of Section 201;

21 (D-15) For taxable years 2001 and thereafter, an
22 amount equal to the bonus depreciation deduction taken
23 on the taxpayer's federal income tax return for the
24 taxable year under subsection (k) of Section 168 of the
25 Internal Revenue Code;

26 (D-16) If the taxpayer sells, transfers, abandons,

1 or otherwise disposes of property for which the
2 taxpayer was required in any taxable year to make an
3 addition modification under subparagraph (D-15), then
4 an amount equal to the aggregate amount of the
5 deductions taken in all taxable years under
6 subparagraph (Z) with respect to that property.

7 If the taxpayer continues to own property through
8 the last day of the last tax year for which the
9 taxpayer may claim a depreciation deduction for
10 federal income tax purposes and for which the taxpayer
11 was allowed in any taxable year to make a subtraction
12 modification under subparagraph (Z), then an amount
13 equal to that subtraction modification.

14 The taxpayer is required to make the addition
15 modification under this subparagraph only once with
16 respect to any one piece of property;

17 (D-17) An amount equal to the amount otherwise
18 allowed as a deduction in computing base income for
19 interest paid, accrued, or incurred, directly or
20 indirectly, (i) for taxable years ending on or after
21 December 31, 2004, to a foreign person who would be a
22 member of the same unitary business group but for the
23 fact that foreign person's business activity outside
24 the United States is 80% or more of the foreign
25 person's total business activity and (ii) for taxable
26 years ending on or after December 31, 2008, to a person

1 preponderance of the evidence, both of the
2 following:

3 (a) the person, during the same taxable
4 year, paid, accrued, or incurred, the interest
5 to a person that is not a related member, and

6 (b) the transaction giving rise to the
7 interest expense between the taxpayer and the
8 person did not have as a principal purpose the
9 avoidance of Illinois income tax, and is paid
10 pursuant to a contract or agreement that
11 reflects an arm's-length interest rate and
12 terms; or

13 (iii) the taxpayer can establish, based on
14 clear and convincing evidence, that the interest
15 paid, accrued, or incurred relates to a contract or
16 agreement entered into at arm's-length rates and
17 terms and the principal purpose for the payment is
18 not federal or Illinois tax avoidance; or

19 (iv) an item of interest paid, accrued, or
20 incurred, directly or indirectly, to a person if
21 the taxpayer establishes by clear and convincing
22 evidence that the adjustments are unreasonable; or
23 if the taxpayer and the Director agree in writing
24 to the application or use of an alternative method
25 of apportionment under Section 304(f).

26 Nothing in this subsection shall preclude the

1 Director from making any other adjustment
2 otherwise allowed under Section 404 of this Act for
3 any tax year beginning after the effective date of
4 this amendment provided such adjustment is made
5 pursuant to regulation adopted by the Department
6 and such regulations provide methods and standards
7 by which the Department will utilize its authority
8 under Section 404 of this Act;

9 (D-18) An amount equal to the amount of intangible
10 expenses and costs otherwise allowed as a deduction in
11 computing base income, and that were paid, accrued, or
12 incurred, directly or indirectly, (i) for taxable
13 years ending on or after December 31, 2004, to a
14 foreign person who would be a member of the same
15 unitary business group but for the fact that the
16 foreign person's business activity outside the United
17 States is 80% or more of that person's total business
18 activity and (ii) for taxable years ending on or after
19 December 31, 2008, to a person who would be a member of
20 the same unitary business group but for the fact that
21 the person is prohibited under Section 1501(a)(27)
22 from being included in the unitary business group
23 because he or she is ordinarily required to apportion
24 business income under different subsections of Section
25 304. The addition modification required by this
26 subparagraph shall be reduced to the extent that

1 dividends were included in base income of the unitary
2 group for the same taxable year and received by the
3 taxpayer or by a member of the taxpayer's unitary
4 business group (including amounts included in gross
5 income under Sections 951 through 964 of the Internal
6 Revenue Code and amounts included in gross income under
7 Section 78 of the Internal Revenue Code) with respect
8 to the stock of the same person to whom the intangible
9 expenses and costs were directly or indirectly paid,
10 incurred, or accrued. The preceding sentence does not
11 apply to the extent that the same dividends caused a
12 reduction to the addition modification required under
13 Section 203(a)(2)(D-17) of this Act. As used in this
14 subparagraph, the term "intangible expenses and costs"
15 includes (1) expenses, losses, and costs for, or
16 related to, the direct or indirect acquisition, use,
17 maintenance or management, ownership, sale, exchange,
18 or any other disposition of intangible property; (2)
19 losses incurred, directly or indirectly, from
20 factoring transactions or discounting transactions;
21 (3) royalty, patent, technical, and copyright fees;
22 (4) licensing fees; and (5) other similar expenses and
23 costs. For purposes of this subparagraph, "intangible
24 property" includes patents, patent applications, trade
25 names, trademarks, service marks, copyrights, mask
26 works, trade secrets, and similar types of intangible

1 assets.

2 This paragraph shall not apply to the following:

3 (i) any item of intangible expenses or costs
4 paid, accrued, or incurred, directly or
5 indirectly, from a transaction with a person who is
6 subject in a foreign country or state, other than a
7 state which requires mandatory unitary reporting,
8 to a tax on or measured by net income with respect
9 to such item; or

10 (ii) any item of intangible expense or cost
11 paid, accrued, or incurred, directly or
12 indirectly, if the taxpayer can establish, based
13 on a preponderance of the evidence, both of the
14 following:

15 (a) the person during the same taxable
16 year paid, accrued, or incurred, the
17 intangible expense or cost to a person that is
18 not a related member, and

19 (b) the transaction giving rise to the
20 intangible expense or cost between the
21 taxpayer and the person did not have as a
22 principal purpose the avoidance of Illinois
23 income tax, and is paid pursuant to a contract
24 or agreement that reflects arm's-length terms;
25 or

26 (iii) any item of intangible expense or cost

1 paid, accrued, or incurred, directly or
2 indirectly, from a transaction with a person if the
3 taxpayer establishes by clear and convincing
4 evidence, that the adjustments are unreasonable;
5 or if the taxpayer and the Director agree in
6 writing to the application or use of an alternative
7 method of apportionment under Section 304(f);

8 Nothing in this subsection shall preclude the
9 Director from making any other adjustment
10 otherwise allowed under Section 404 of this Act for
11 any tax year beginning after the effective date of
12 this amendment provided such adjustment is made
13 pursuant to regulation adopted by the Department
14 and such regulations provide methods and standards
15 by which the Department will utilize its authority
16 under Section 404 of this Act;

17 (D-19) For taxable years ending on or after
18 December 31, 2008, an amount equal to the amount of
19 insurance premium expenses and costs otherwise allowed
20 as a deduction in computing base income, and that were
21 paid, accrued, or incurred, directly or indirectly, to
22 a person who would be a member of the same unitary
23 business group but for the fact that the person is
24 prohibited under Section 1501(a)(27) from being
25 included in the unitary business group because he or
26 she is ordinarily required to apportion business

1 income under different subsections of Section 304. The
2 addition modification required by this subparagraph
3 shall be reduced to the extent that dividends were
4 included in base income of the unitary group for the
5 same taxable year and received by the taxpayer or by a
6 member of the taxpayer's unitary business group
7 (including amounts included in gross income under
8 Sections 951 through 964 of the Internal Revenue Code
9 and amounts included in gross income under Section 78
10 of the Internal Revenue Code) with respect to the stock
11 of the same person to whom the premiums and costs were
12 directly or indirectly paid, incurred, or accrued. The
13 preceding sentence does not apply to the extent that
14 the same dividends caused a reduction to the addition
15 modification required under Section 203(a)(2)(D-17) or
16 Section 203(a)(2)(D-18) of this Act.

17 (D-20) For taxable years beginning on or after
18 January 1, 2002 and ending on or before December 31,
19 2006, in the case of a distribution from a qualified
20 tuition program under Section 529 of the Internal
21 Revenue Code, other than (i) a distribution from a
22 College Savings Pool created under Section 16.5 of the
23 State Treasurer Act or (ii) a distribution from the
24 Illinois Prepaid Tuition Trust Fund, an amount equal to
25 the amount excluded from gross income under Section
26 529(c)(3)(B). For taxable years beginning on or after

1 January 1, 2007, in the case of a distribution from a
2 qualified tuition program under Section 529 of the
3 Internal Revenue Code, other than (i) a distribution
4 from a College Savings Pool created under Section 16.5
5 of the State Treasurer Act, (ii) a distribution from
6 the Illinois Prepaid Tuition Trust Fund, or (iii) a
7 distribution from a qualified tuition program under
8 Section 529 of the Internal Revenue Code that (I)
9 adopts and determines that its offering materials
10 comply with the College Savings Plans Network's
11 disclosure principles and (II) has made reasonable
12 efforts to inform in-state residents of the existence
13 of in-state qualified tuition programs by informing
14 Illinois residents directly and, where applicable, to
15 inform financial intermediaries distributing the
16 program to inform in-state residents of the existence
17 of in-state qualified tuition programs at least
18 annually, an amount equal to the amount excluded from
19 gross income under Section 529(c)(3)(B).

20 For the purposes of this subparagraph (D-20), a
21 qualified tuition program has made reasonable efforts
22 if it makes disclosures (which may use the term
23 "in-state program" or "in-state plan" and need not
24 specifically refer to Illinois or its qualified
25 programs by name) (i) directly to prospective
26 participants in its offering materials or makes a

1 public disclosure, such as a website posting; and (ii)
2 where applicable, to intermediaries selling the
3 out-of-state program in the same manner that the
4 out-of-state program distributes its offering
5 materials;

6 (D-20.5) For taxable years beginning on or after
7 January 1, 2018, in the case of a distribution from a
8 qualified ABLE program under Section 529A of the
9 Internal Revenue Code, other than a distribution from a
10 qualified ABLE program created under Section 16.6 of
11 the State Treasurer Act, an amount equal to the amount
12 excluded from gross income under Section 529A(c)(1)(B)
13 of the Internal Revenue Code;

14 (D-21) For taxable years beginning on or after
15 January 1, 2007, in the case of transfer of moneys from
16 a qualified tuition program under Section 529 of the
17 Internal Revenue Code that is administered by the State
18 to an out-of-state program, an amount equal to the
19 amount of moneys previously deducted from base income
20 under subsection (a)(2)(Y) of this Section;

21 (D-21.5) For taxable years beginning on or after
22 January 1, 2018, in the case of the transfer of moneys
23 from a qualified tuition program under Section 529 or a
24 qualified ABLE program under Section 529A of the
25 Internal Revenue Code that is administered by this
26 State to an ABLE account established under an

1 out-of-state ABLE account program, an amount equal to
2 the contribution component of the transferred amount
3 that was previously deducted from base income under
4 subsection (a)(2)(Y) or subsection (a)(2)(HH) of this
5 Section;

6 (D-22) For taxable years beginning on or after
7 January 1, 2009, and prior to January 1, 2018, in the
8 case of a nonqualified withdrawal or refund of moneys
9 from a qualified tuition program under Section 529 of
10 the Internal Revenue Code administered by the State
11 that is not used for qualified expenses at an eligible
12 education institution, an amount equal to the
13 contribution component of the nonqualified withdrawal
14 or refund that was previously deducted from base income
15 under subsection (a)(2)(y) of this Section, provided
16 that the withdrawal or refund did not result from the
17 beneficiary's death or disability. For taxable years
18 beginning on or after January 1, 2018: (1) in the case
19 of a nonqualified withdrawal or refund, as defined
20 under Section 16.5 of the State Treasurer Act, of
21 moneys from a qualified tuition program under Section
22 529 of the Internal Revenue Code administered by the
23 State, an amount equal to the contribution component of
24 the nonqualified withdrawal or refund that was
25 previously deducted from base income under subsection
26 (a)(2)(Y) of this Section, and (2) in the case of a

1 nonqualified withdrawal or refund from a qualified
2 ABLE program under Section 529A of the Internal Revenue
3 Code administered by the State that is not used for
4 qualified disability expenses, an amount equal to the
5 contribution component of the nonqualified withdrawal
6 or refund that was previously deducted from base income
7 under subsection (a) (2) (HH) of this Section;

8 (D-23) An amount equal to the credit allowable to
9 the taxpayer under Section 218(a) of this Act,
10 determined without regard to Section 218(c) of this
11 Act;

12 (D-24) For taxable years ending on or after
13 December 31, 2017, an amount equal to the deduction
14 allowed under Section 199 of the Internal Revenue Code
15 for the taxable year;

16 and by deducting from the total so obtained the sum of the
17 following amounts:

18 (E) For taxable years ending before December 31,
19 2001, any amount included in such total in respect of
20 any compensation (including but not limited to any
21 compensation paid or accrued to a serviceman while a
22 prisoner of war or missing in action) paid to a
23 resident by reason of being on active duty in the Armed
24 Forces of the United States and in respect of any
25 compensation paid or accrued to a resident who as a
26 governmental employee was a prisoner of war or missing

1 in action, and in respect of any compensation paid to a
2 resident in 1971 or thereafter for annual training
3 performed pursuant to Sections 502 and 503, Title 32,
4 United States Code as a member of the Illinois National
5 Guard or, beginning with taxable years ending on or
6 after December 31, 2007, the National Guard of any
7 other state. For taxable years ending on or after
8 December 31, 2001, any amount included in such total in
9 respect of any compensation (including but not limited
10 to any compensation paid or accrued to a serviceman
11 while a prisoner of war or missing in action) paid to a
12 resident by reason of being a member of any component
13 of the Armed Forces of the United States and in respect
14 of any compensation paid or accrued to a resident who
15 as a governmental employee was a prisoner of war or
16 missing in action, and in respect of any compensation
17 paid to a resident in 2001 or thereafter by reason of
18 being a member of the Illinois National Guard or,
19 beginning with taxable years ending on or after
20 December 31, 2007, the National Guard of any other
21 state. The provisions of this subparagraph (E) are
22 exempt from the provisions of Section 250;

23 (F) An amount equal to all amounts included in such
24 total pursuant to the provisions of Sections 402(a),
25 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
26 Internal Revenue Code, or included in such total as

1 distributions under the provisions of any retirement
2 or disability plan for employees of any governmental
3 agency or unit, or retirement payments to retired
4 partners, which payments are excluded in computing net
5 earnings from self employment by Section 1402 of the
6 Internal Revenue Code and regulations adopted pursuant
7 thereto;

8 (G) The valuation limitation amount;

9 (H) An amount equal to the amount of any tax
10 imposed by this Act which was refunded to the taxpayer
11 and included in such total for the taxable year;

12 (I) An amount equal to all amounts included in such
13 total pursuant to the provisions of Section 111 of the
14 Internal Revenue Code as a recovery of items previously
15 deducted from adjusted gross income in the computation
16 of taxable income;

17 (J) An amount equal to those dividends included in
18 such total which were paid by a corporation which
19 conducts business operations in a River Edge
20 Redevelopment Zone or zones created under the River
21 Edge Redevelopment Zone Act, and conducts
22 substantially all of its operations in a River Edge
23 Redevelopment Zone or zones. This subparagraph (J) is
24 exempt from the provisions of Section 250;

25 (K) An amount equal to those dividends included in
26 such total that were paid by a corporation that

1 conducts business operations in a federally designated
2 Foreign Trade Zone or Sub-Zone and that is designated a
3 High Impact Business located in Illinois; provided
4 that dividends eligible for the deduction provided in
5 subparagraph (J) of paragraph (2) of this subsection
6 shall not be eligible for the deduction provided under
7 this subparagraph (K);

8 (L) For taxable years ending after December 31,
9 1983, an amount equal to all social security benefits
10 and railroad retirement benefits included in such
11 total pursuant to Sections 72(r) and 86 of the Internal
12 Revenue Code;

13 (M) With the exception of any amounts subtracted
14 under subparagraph (N), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal
17 Revenue Code, and all amounts of expenses allocable to
18 interest and disallowed as deductions by Section
19 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)
20 for taxable years ending on or after August 13, 1999,
21 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
22 the Internal Revenue Code, plus, for taxable years
23 ending on or after December 31, 2011, Section 45G(e)(3)
24 of the Internal Revenue Code and, for taxable years
25 ending on or after December 31, 2008, any amount
26 included in gross income under Section 87 of the

1 Internal Revenue Code; the provisions of this
2 subparagraph are exempt from the provisions of Section
3 250;

4 (N) An amount equal to all amounts included in such
5 total which are exempt from taxation by this State
6 either by reason of its statutes or Constitution or by
7 reason of the Constitution, treaties or statutes of the
8 United States; provided that, in the case of any
9 statute of this State that exempts income derived from
10 bonds or other obligations from the tax imposed under
11 this Act, the amount exempted shall be the interest net
12 of bond premium amortization;

13 (O) An amount equal to any contribution made to a
14 job training project established pursuant to the Tax
15 Increment Allocation Redevelopment Act;

16 (P) An amount equal to the amount of the deduction
17 used to compute the federal income tax credit for
18 restoration of substantial amounts held under claim of
19 right for the taxable year pursuant to Section 1341 of
20 the Internal Revenue Code or of any itemized deduction
21 taken from adjusted gross income in the computation of
22 taxable income for restoration of substantial amounts
23 held under claim of right for the taxable year;

24 (Q) An amount equal to any amounts included in such
25 total, received by the taxpayer as an acceleration in
26 the payment of life, endowment or annuity benefits in

1 advance of the time they would otherwise be payable as
2 an indemnity for a terminal illness;

3 (R) An amount equal to the amount of any federal or
4 State bonus paid to veterans of the Persian Gulf War;

5 (S) An amount, to the extent included in adjusted
6 gross income, equal to the amount of a contribution
7 made in the taxable year on behalf of the taxpayer to a
8 medical care savings account established under the
9 Medical Care Savings Account Act or the Medical Care
10 Savings Account Act of 2000 to the extent the
11 contribution is accepted by the account administrator
12 as provided in that Act;

13 (T) An amount, to the extent included in adjusted
14 gross income, equal to the amount of interest earned in
15 the taxable year on a medical care savings account
16 established under the Medical Care Savings Account Act
17 or the Medical Care Savings Account Act of 2000 on
18 behalf of the taxpayer, other than interest added
19 pursuant to item (D-5) of this paragraph (2);

20 (U) For one taxable year beginning on or after
21 January 1, 1994, an amount equal to the total amount of
22 tax imposed and paid under subsections (a) and (b) of
23 Section 201 of this Act on grant amounts received by
24 the taxpayer under the Nursing Home Grant Assistance
25 Act during the taxpayer's taxable years 1992 and 1993;

26 (V) Beginning with tax years ending on or after

1 December 31, 1995 and ending with tax years ending on
2 or before December 31, 2004, an amount equal to the
3 amount paid by a taxpayer who is a self-employed
4 taxpayer, a partner of a partnership, or a shareholder
5 in a Subchapter S corporation for health insurance or
6 long-term care insurance for that taxpayer or that
7 taxpayer's spouse or dependents, to the extent that the
8 amount paid for that health insurance or long-term care
9 insurance may be deducted under Section 213 of the
10 Internal Revenue Code, has not been deducted on the
11 federal income tax return of the taxpayer, and does not
12 exceed the taxable income attributable to that
13 taxpayer's income, self-employment income, or
14 Subchapter S corporation income; except that no
15 deduction shall be allowed under this item (V) if the
16 taxpayer is eligible to participate in any health
17 insurance or long-term care insurance plan of an
18 employer of the taxpayer or the taxpayer's spouse. The
19 amount of the health insurance and long-term care
20 insurance subtracted under this item (V) shall be
21 determined by multiplying total health insurance and
22 long-term care insurance premiums paid by the taxpayer
23 times a number that represents the fractional
24 percentage of eligible medical expenses under Section
25 213 of the Internal Revenue Code of 1986 not actually
26 deducted on the taxpayer's federal income tax return;

1 (W) For taxable years beginning on or after January
2 1, 1998, all amounts included in the taxpayer's federal
3 gross income in the taxable year from amounts converted
4 from a regular IRA to a Roth IRA. This paragraph is
5 exempt from the provisions of Section 250;

6 (X) For taxable year 1999 and thereafter, an amount
7 equal to the amount of any (i) distributions, to the
8 extent includible in gross income for federal income
9 tax purposes, made to the taxpayer because of his or
10 her status as a victim of persecution for racial or
11 religious reasons by Nazi Germany or any other Axis
12 regime or as an heir of the victim and (ii) items of
13 income, to the extent includible in gross income for
14 federal income tax purposes, attributable to, derived
15 from or in any way related to assets stolen from,
16 hidden from, or otherwise lost to a victim of
17 persecution for racial or religious reasons by Nazi
18 Germany or any other Axis regime immediately prior to,
19 during, and immediately after World War II, including,
20 but not limited to, interest on the proceeds receivable
21 as insurance under policies issued to a victim of
22 persecution for racial or religious reasons by Nazi
23 Germany or any other Axis regime by European insurance
24 companies immediately prior to and during World War II;
25 provided, however, this subtraction from federal
26 adjusted gross income does not apply to assets acquired

1 with such assets or with the proceeds from the sale of
2 such assets; provided, further, this paragraph shall
3 only apply to a taxpayer who was the first recipient of
4 such assets after their recovery and who is a victim of
5 persecution for racial or religious reasons by Nazi
6 Germany or any other Axis regime or as an heir of the
7 victim. The amount of and the eligibility for any
8 public assistance, benefit, or similar entitlement is
9 not affected by the inclusion of items (i) and (ii) of
10 this paragraph in gross income for federal income tax
11 purposes. This paragraph is exempt from the provisions
12 of Section 250;

13 (Y) For taxable years beginning on or after January
14 1, 2002 and ending on or before December 31, 2004,
15 moneys contributed in the taxable year to a College
16 Savings Pool account under Section 16.5 of the State
17 Treasurer Act, except that amounts excluded from gross
18 income under Section 529(c)(3)(C)(i) of the Internal
19 Revenue Code shall not be considered moneys
20 contributed under this subparagraph (Y). For taxable
21 years beginning on or after January 1, 2005, a maximum
22 of \$10,000 contributed in the taxable year to (i) a
23 College Savings Pool account under Section 16.5 of the
24 State Treasurer Act or (ii) the Illinois Prepaid
25 Tuition Trust Fund, except that amounts excluded from
26 gross income under Section 529(c)(3)(C)(i) of the

1 Internal Revenue Code shall not be considered moneys
2 contributed under this subparagraph (Y). For purposes
3 of this subparagraph, contributions made by an
4 employer on behalf of an employee, or matching
5 contributions made by an employee, shall be treated as
6 made by the employee. This subparagraph (Y) is exempt
7 from the provisions of Section 250;

8 (Z) For taxable years 2001 and thereafter, for the
9 taxable year in which the bonus depreciation deduction
10 is taken on the taxpayer's federal income tax return
11 under subsection (k) of Section 168 of the Internal
12 Revenue Code and for each applicable taxable year
13 thereafter, an amount equal to "x", where:

14 (1) "y" equals the amount of the depreciation
15 deduction taken for the taxable year on the
16 taxpayer's federal income tax return on property
17 for which the bonus depreciation deduction was
18 taken in any year under subsection (k) of Section
19 168 of the Internal Revenue Code, but not including
20 the bonus depreciation deduction;

21 (2) for taxable years ending on or before
22 December 31, 2005, "x" equals "y" multiplied by 30
23 and then divided by 70 (or "y" multiplied by
24 0.429); and

25 (3) for taxable years ending after December
26 31, 2005:

1 (i) for property on which a bonus
2 depreciation deduction of 30% of the adjusted
3 basis was taken, "x" equals "y" multiplied by
4 30 and then divided by 70 (or "y" multiplied by
5 0.429); and

6 (ii) for property on which a bonus
7 depreciation deduction of 50% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 1.0.

10 The aggregate amount deducted under this
11 subparagraph in all taxable years for any one piece of
12 property may not exceed the amount of the bonus
13 depreciation deduction taken on that property on the
14 taxpayer's federal income tax return under subsection
15 (k) of Section 168 of the Internal Revenue Code. This
16 subparagraph (Z) is exempt from the provisions of
17 Section 250;

18 (AA) If the taxpayer sells, transfers, abandons,
19 or otherwise disposes of property for which the
20 taxpayer was required in any taxable year to make an
21 addition modification under subparagraph (D-15), then
22 an amount equal to that addition modification.

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer

1 was required in any taxable year to make an addition
2 modification under subparagraph (D-15), then an amount
3 equal to that addition modification.

4 The taxpayer is allowed to take the deduction under
5 this subparagraph only once with respect to any one
6 piece of property.

7 This subparagraph (AA) is exempt from the
8 provisions of Section 250;

9 (BB) Any amount included in adjusted gross income,
10 other than salary, received by a driver in a
11 ridesharing arrangement using a motor vehicle;

12 (CC) The amount of (i) any interest income (net of
13 the deductions allocable thereto) taken into account
14 for the taxable year with respect to a transaction with
15 a taxpayer that is required to make an addition
16 modification with respect to such transaction under
17 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
18 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
19 the amount of that addition modification, and (ii) any
20 income from intangible property (net of the deductions
21 allocable thereto) taken into account for the taxable
22 year with respect to a transaction with a taxpayer that
23 is required to make an addition modification with
24 respect to such transaction under Section
25 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
26 203(d)(2)(D-8), but not to exceed the amount of that

1 addition modification. This subparagraph (CC) is
2 exempt from the provisions of Section 250;

3 (DD) An amount equal to the interest income taken
4 into account for the taxable year (net of the
5 deductions allocable thereto) with respect to
6 transactions with (i) a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity and (ii) for taxable
11 years ending on or after December 31, 2008, to a person
12 who would be a member of the same unitary business
13 group but for the fact that the person is prohibited
14 under Section 1501(a)(27) from being included in the
15 unitary business group because he or she is ordinarily
16 required to apportion business income under different
17 subsections of Section 304, but not to exceed the
18 addition modification required to be made for the same
19 taxable year under Section 203(a)(2)(D-17) for
20 interest paid, accrued, or incurred, directly or
21 indirectly, to the same person. This subparagraph (DD)
22 is exempt from the provisions of Section 250;

23 (EE) An amount equal to the income from intangible
24 property taken into account for the taxable year (net
25 of the deductions allocable thereto) with respect to
26 transactions with (i) a foreign person who would be a

1 member of the taxpayer's unitary business group but for
2 the fact that the foreign person's business activity
3 outside the United States is 80% or more of that
4 person's total business activity and (ii) for taxable
5 years ending on or after December 31, 2008, to a person
6 who would be a member of the same unitary business
7 group but for the fact that the person is prohibited
8 under Section 1501(a)(27) from being included in the
9 unitary business group because he or she is ordinarily
10 required to apportion business income under different
11 subsections of Section 304, but not to exceed the
12 addition modification required to be made for the same
13 taxable year under Section 203(a)(2)(D-18) for
14 intangible expenses and costs paid, accrued, or
15 incurred, directly or indirectly, to the same foreign
16 person. This subparagraph (EE) is exempt from the
17 provisions of Section 250;

18 (FF) An amount equal to any amount awarded to the
19 taxpayer during the taxable year by the Court of Claims
20 under subsection (c) of Section 8 of the Court of
21 Claims Act for time unjustly served in a State prison.
22 This subparagraph (FF) is exempt from the provisions of
23 Section 250;

24 (GG) For taxable years ending on or after December
25 31, 2011, in the case of a taxpayer who was required to
26 add back any insurance premiums under Section

1 203(a)(2)(D-19), such taxpayer may elect to subtract
2 that part of a reimbursement received from the
3 insurance company equal to the amount of the expense or
4 loss (including expenses incurred by the insurance
5 company) that would have been taken into account as a
6 deduction for federal income tax purposes if the
7 expense or loss had been uninsured. If a taxpayer makes
8 the election provided for by this subparagraph (GG),
9 the insurer to which the premiums were paid must add
10 back to income the amount subtracted by the taxpayer
11 pursuant to this subparagraph (GG). This subparagraph
12 (GG) is exempt from the provisions of Section 250; and

13 (HH) For taxable years beginning on or after
14 January 1, 2018 and prior to January 1, 2023, a maximum
15 of \$10,000 contributed in the taxable year to a
16 qualified ABLE account under Section 16.6 of the State
17 Treasurer Act, except that amounts excluded from gross
18 income under Section 529(c)(3)(C)(i) or Section
19 529A(c)(1)(C) of the Internal Revenue Code shall not be
20 considered moneys contributed under this subparagraph
21 (HH). For purposes of this subparagraph (HH),
22 contributions made by an employer on behalf of an
23 employee, or matching contributions made by an
24 employee, shall be treated as made by the employee.

25 (b) Corporations.

1 (1) In general. In the case of a corporation, base
2 income means an amount equal to the taxpayer's taxable
3 income for the taxable year as modified by paragraph (2).

4 (2) Modifications. The taxable income referred to in
5 paragraph (1) shall be modified by adding thereto the sum
6 of the following amounts:

7 (A) An amount equal to all amounts paid or accrued
8 to the taxpayer as interest and all distributions
9 received from regulated investment companies during
10 the taxable year to the extent excluded from gross
11 income in the computation of taxable income;

12 (B) An amount equal to the amount of tax imposed by
13 this Act to the extent deducted from gross income in
14 the computation of taxable income for the taxable year;

15 (C) In the case of a regulated investment company,
16 an amount equal to the excess of (i) the net long-term
17 capital gain for the taxable year, over (ii) the amount
18 of the capital gain dividends designated as such in
19 accordance with Section 852(b)(3)(C) of the Internal
20 Revenue Code and any amount designated under Section
21 852(b)(3)(D) of the Internal Revenue Code,
22 attributable to the taxable year (this amendatory Act
23 of 1995 (Public Act 89-89) is declarative of existing
24 law and is not a new enactment);

25 (D) The amount of any net operating loss deduction
26 taken in arriving at taxable income, other than a net

1 operating loss carried forward from a taxable year
2 ending prior to December 31, 1986;

3 (E) For taxable years in which a net operating loss
4 carryback or carryforward from a taxable year ending
5 prior to December 31, 1986 is an element of taxable
6 income under paragraph (1) of subsection (e) or
7 subparagraph (E) of paragraph (2) of subsection (e),
8 the amount by which addition modifications other than
9 those provided by this subparagraph (E) exceeded
10 subtraction modifications in such earlier taxable
11 year, with the following limitations applied in the
12 order that they are listed:

13 (i) the addition modification relating to the
14 net operating loss carried back or forward to the
15 taxable year from any taxable year ending prior to
16 December 31, 1986 shall be reduced by the amount of
17 addition modification under this subparagraph (E)
18 which related to that net operating loss and which
19 was taken into account in calculating the base
20 income of an earlier taxable year, and

21 (ii) the addition modification relating to the
22 net operating loss carried back or forward to the
23 taxable year from any taxable year ending prior to
24 December 31, 1986 shall not exceed the amount of
25 such carryback or carryforward;

26 For taxable years in which there is a net operating

1 loss carryback or carryforward from more than one other
2 taxable year ending prior to December 31, 1986, the
3 addition modification provided in this subparagraph
4 (E) shall be the sum of the amounts computed
5 independently under the preceding provisions of this
6 subparagraph (E) for each such taxable year;

7 (E-5) For taxable years ending after December 31,
8 1997, an amount equal to any eligible remediation costs
9 that the corporation deducted in computing adjusted
10 gross income and for which the corporation claims a
11 credit under subsection (l) of Section 201;

12 (E-10) For taxable years 2001 and thereafter, an
13 amount equal to the bonus depreciation deduction taken
14 on the taxpayer's federal income tax return for the
15 taxable year under subsection (k) of Section 168 of the
16 Internal Revenue Code;

17 (E-11) If the taxpayer sells, transfers, abandons,
18 or otherwise disposes of property for which the
19 taxpayer was required in any taxable year to make an
20 addition modification under subparagraph (E-10), then
21 an amount equal to the aggregate amount of the
22 deductions taken in all taxable years under
23 subparagraph (T) with respect to that property.

24 If the taxpayer continues to own property through
25 the last day of the last tax year for which the
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer
2 was allowed in any taxable year to make a subtraction
3 modification under subparagraph (T), then an amount
4 equal to that subtraction modification.

5 The taxpayer is required to make the addition
6 modification under this subparagraph only once with
7 respect to any one piece of property;

8 (E-12) An amount equal to the amount otherwise
9 allowed as a deduction in computing base income for
10 interest paid, accrued, or incurred, directly or
11 indirectly, (i) for taxable years ending on or after
12 December 31, 2004, to a foreign person who would be a
13 member of the same unitary business group but for the
14 fact the foreign person's business activity outside
15 the United States is 80% or more of the foreign
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304. The addition modification
24 required by this subparagraph shall be reduced to the
25 extent that dividends were included in base income of
26 the unitary group for the same taxable year and

1 received by the taxpayer or by a member of the
2 taxpayer's unitary business group (including amounts
3 included in gross income pursuant to Sections 951
4 through 964 of the Internal Revenue Code and amounts
5 included in gross income under Section 78 of the
6 Internal Revenue Code) with respect to the stock of the
7 same person to whom the interest was paid, accrued, or
8 incurred.

9 This paragraph shall not apply to the following:

10 (i) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a person who
12 is subject in a foreign country or state, other
13 than a state which requires mandatory unitary
14 reporting, to a tax on or measured by net income
15 with respect to such interest; or

16 (ii) an item of interest paid, accrued, or
17 incurred, directly or indirectly, to a person if
18 the taxpayer can establish, based on a
19 preponderance of the evidence, both of the
20 following:

21 (a) the person, during the same taxable
22 year, paid, accrued, or incurred, the interest
23 to a person that is not a related member, and

24 (b) the transaction giving rise to the
25 interest expense between the taxpayer and the
26 person did not have as a principal purpose the

1 avoidance of Illinois income tax, and is paid
2 pursuant to a contract or agreement that
3 reflects an arm's-length interest rate and
4 terms; or

5 (iii) the taxpayer can establish, based on
6 clear and convincing evidence, that the interest
7 paid, accrued, or incurred relates to a contract or
8 agreement entered into at arm's-length rates and
9 terms and the principal purpose for the payment is
10 not federal or Illinois tax avoidance; or

11 (iv) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a person if
13 the taxpayer establishes by clear and convincing
14 evidence that the adjustments are unreasonable; or
15 if the taxpayer and the Director agree in writing
16 to the application or use of an alternative method
17 of apportionment under Section 304(f).

18 Nothing in this subsection shall preclude the
19 Director from making any other adjustment
20 otherwise allowed under Section 404 of this Act for
21 any tax year beginning after the effective date of
22 this amendment provided such adjustment is made
23 pursuant to regulation adopted by the Department
24 and such regulations provide methods and standards
25 by which the Department will utilize its authority
26 under Section 404 of this Act;

1 (E-13) An amount equal to the amount of intangible
2 expenses and costs otherwise allowed as a deduction in
3 computing base income, and that were paid, accrued, or
4 incurred, directly or indirectly, (i) for taxable
5 years ending on or after December 31, 2004, to a
6 foreign person who would be a member of the same
7 unitary business group but for the fact that the
8 foreign person's business activity outside the United
9 States is 80% or more of that person's total business
10 activity and (ii) for taxable years ending on or after
11 December 31, 2008, to a person who would be a member of
12 the same unitary business group but for the fact that
13 the person is prohibited under Section 1501(a)(27)
14 from being included in the unitary business group
15 because he or she is ordinarily required to apportion
16 business income under different subsections of Section
17 304. The addition modification required by this
18 subparagraph shall be reduced to the extent that
19 dividends were included in base income of the unitary
20 group for the same taxable year and received by the
21 taxpayer or by a member of the taxpayer's unitary
22 business group (including amounts included in gross
23 income pursuant to Sections 951 through 964 of the
24 Internal Revenue Code and amounts included in gross
25 income under Section 78 of the Internal Revenue Code)
26 with respect to the stock of the same person to whom

1 the intangible expenses and costs were directly or
2 indirectly paid, incurred, or accrued. The preceding
3 sentence shall not apply to the extent that the same
4 dividends caused a reduction to the addition
5 modification required under Section 203(b)(2)(E-12) of
6 this Act. As used in this subparagraph, the term
7 "intangible expenses and costs" includes (1) expenses,
8 losses, and costs for, or related to, the direct or
9 indirect acquisition, use, maintenance or management,
10 ownership, sale, exchange, or any other disposition of
11 intangible property; (2) losses incurred, directly or
12 indirectly, from factoring transactions or discounting
13 transactions; (3) royalty, patent, technical, and
14 copyright fees; (4) licensing fees; and (5) other
15 similar expenses and costs. For purposes of this
16 subparagraph, "intangible property" includes patents,
17 patent applications, trade names, trademarks, service
18 marks, copyrights, mask works, trade secrets, and
19 similar types of intangible assets.

20 This paragraph shall not apply to the following:

21 (i) any item of intangible expenses or costs
22 paid, accrued, or incurred, directly or
23 indirectly, from a transaction with a person who is
24 subject in a foreign country or state, other than a
25 state which requires mandatory unitary reporting,
26 to a tax on or measured by net income with respect

1 to such item; or

2 (ii) any item of intangible expense or cost
3 paid, accrued, or incurred, directly or
4 indirectly, if the taxpayer can establish, based
5 on a preponderance of the evidence, both of the
6 following:

7 (a) the person during the same taxable
8 year paid, accrued, or incurred, the
9 intangible expense or cost to a person that is
10 not a related member, and

11 (b) the transaction giving rise to the
12 intangible expense or cost between the
13 taxpayer and the person did not have as a
14 principal purpose the avoidance of Illinois
15 income tax, and is paid pursuant to a contract
16 or agreement that reflects arm's-length terms;
17 or

18 (iii) any item of intangible expense or cost
19 paid, accrued, or incurred, directly or
20 indirectly, from a transaction with a person if the
21 taxpayer establishes by clear and convincing
22 evidence, that the adjustments are unreasonable;
23 or if the taxpayer and the Director agree in
24 writing to the application or use of an alternative
25 method of apportionment under Section 304(f);

26 Nothing in this subsection shall preclude the

1 Director from making any other adjustment
2 otherwise allowed under Section 404 of this Act for
3 any tax year beginning after the effective date of
4 this amendment provided such adjustment is made
5 pursuant to regulation adopted by the Department
6 and such regulations provide methods and standards
7 by which the Department will utilize its authority
8 under Section 404 of this Act;

9 (E-14) For taxable years ending on or after
10 December 31, 2008, an amount equal to the amount of
11 insurance premium expenses and costs otherwise allowed
12 as a deduction in computing base income, and that were
13 paid, accrued, or incurred, directly or indirectly, to
14 a person who would be a member of the same unitary
15 business group but for the fact that the person is
16 prohibited under Section 1501(a)(27) from being
17 included in the unitary business group because he or
18 she is ordinarily required to apportion business
19 income under different subsections of Section 304. The
20 addition modification required by this subparagraph
21 shall be reduced to the extent that dividends were
22 included in base income of the unitary group for the
23 same taxable year and received by the taxpayer or by a
24 member of the taxpayer's unitary business group
25 (including amounts included in gross income under
26 Sections 951 through 964 of the Internal Revenue Code

1 and amounts included in gross income under Section 78
2 of the Internal Revenue Code) with respect to the stock
3 of the same person to whom the premiums and costs were
4 directly or indirectly paid, incurred, or accrued. The
5 preceding sentence does not apply to the extent that
6 the same dividends caused a reduction to the addition
7 modification required under Section 203(b)(2)(E-12) or
8 Section 203(b)(2)(E-13) of this Act;

9 (E-15) For taxable years beginning after December
10 31, 2008, any deduction for dividends paid by a captive
11 real estate investment trust that is allowed to a real
12 estate investment trust under Section 857(b)(2)(B) of
13 the Internal Revenue Code for dividends paid;

14 (E-16) An amount equal to the credit allowable to
15 the taxpayer under Section 218(a) of this Act,
16 determined without regard to Section 218(c) of this
17 Act;

18 (E-17) For taxable years ending on or after
19 December 31, 2017, an amount equal to the deduction
20 allowed under Section 199 of the Internal Revenue Code
21 for the taxable year;

22 (E-18) for taxable years beginning after December
23 31, 2018, an amount equal to the deduction allowed
24 under Section 250(a)(1)(A) of the Internal Revenue
25 Code for the taxable year.

26 and by deducting from the total so obtained the sum of the

1 following amounts:

2 (F) An amount equal to the amount of any tax
3 imposed by this Act which was refunded to the taxpayer
4 and included in such total for the taxable year;

5 (G) An amount equal to any amount included in such
6 total under Section 78 of the Internal Revenue Code;

7 (H) In the case of a regulated investment company,
8 an amount equal to the amount of exempt interest
9 dividends as defined in subsection (b)(5) of Section
10 852 of the Internal Revenue Code, paid to shareholders
11 for the taxable year;

12 (I) With the exception of any amounts subtracted
13 under subparagraph (J), an amount equal to the sum of
14 all amounts disallowed as deductions by (i) Sections
15 171(a)(2), and 265(a)(2) and amounts disallowed as
16 interest expense by Section 291(a)(3) of the Internal
17 Revenue Code, and all amounts of expenses allocable to
18 interest and disallowed as deductions by Section
19 265(a)(1) of the Internal Revenue Code; and (ii) for
20 taxable years ending on or after August 13, 1999,
21 Sections 171(a)(2), 265, 280C, 291(a)(3), and
22 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
23 for tax years ending on or after December 31, 2011,
24 amounts disallowed as deductions by Section 45G(e)(3)
25 of the Internal Revenue Code and, for taxable years
26 ending on or after December 31, 2008, any amount

1 included in gross income under Section 87 of the
2 Internal Revenue Code and the policyholders' share of
3 tax-exempt interest of a life insurance company under
4 Section 807(a)(2)(B) of the Internal Revenue Code (in
5 the case of a life insurance company with gross income
6 from a decrease in reserves for the tax year) or
7 Section 807(b)(1)(B) of the Internal Revenue Code (in
8 the case of a life insurance company allowed a
9 deduction for an increase in reserves for the tax
10 year); the provisions of this subparagraph are exempt
11 from the provisions of Section 250;

12 (J) An amount equal to all amounts included in such
13 total which are exempt from taxation by this State
14 either by reason of its statutes or Constitution or by
15 reason of the Constitution, treaties or statutes of the
16 United States; provided that, in the case of any
17 statute of this State that exempts income derived from
18 bonds or other obligations from the tax imposed under
19 this Act, the amount exempted shall be the interest net
20 of bond premium amortization;

21 (K) An amount equal to those dividends included in
22 such total which were paid by a corporation which
23 conducts business operations in a River Edge
24 Redevelopment Zone or zones created under the River
25 Edge Redevelopment Zone Act and conducts substantially
26 all of its operations in a River Edge Redevelopment

1 Zone or zones. This subparagraph (K) is exempt from the
2 provisions of Section 250;

3 (L) An amount equal to those dividends included in
4 such total that were paid by a corporation that
5 conducts business operations in a federally designated
6 Foreign Trade Zone or Sub-Zone and that is designated a
7 High Impact Business located in Illinois; provided
8 that dividends eligible for the deduction provided in
9 subparagraph (K) of paragraph 2 of this subsection
10 shall not be eligible for the deduction provided under
11 this subparagraph (L);

12 (M) For any taxpayer that is a financial
13 organization within the meaning of Section 304(c) of
14 this Act, an amount included in such total as interest
15 income from a loan or loans made by such taxpayer to a
16 borrower, to the extent that such a loan is secured by
17 property which is eligible for the River Edge
18 Redevelopment Zone Investment Credit. To determine the
19 portion of a loan or loans that is secured by property
20 eligible for a Section 201(f) investment credit to the
21 borrower, the entire principal amount of the loan or
22 loans between the taxpayer and the borrower should be
23 divided into the basis of the Section 201(f) investment
24 credit property which secures the loan or loans, using
25 for this purpose the original basis of such property on
26 the date that it was placed in service in the River

1 Edge Redevelopment Zone. The subtraction modification
2 available to the taxpayer in any year under this
3 subsection shall be that portion of the total interest
4 paid by the borrower with respect to such loan
5 attributable to the eligible property as calculated
6 under the previous sentence. This subparagraph (M) is
7 exempt from the provisions of Section 250;

8 (M-1) For any taxpayer that is a financial
9 organization within the meaning of Section 304(c) of
10 this Act, an amount included in such total as interest
11 income from a loan or loans made by such taxpayer to a
12 borrower, to the extent that such a loan is secured by
13 property which is eligible for the High Impact Business
14 Investment Credit. To determine the portion of a loan
15 or loans that is secured by property eligible for a
16 Section 201(h) investment credit to the borrower, the
17 entire principal amount of the loan or loans between
18 the taxpayer and the borrower should be divided into
19 the basis of the Section 201(h) investment credit
20 property which secures the loan or loans, using for
21 this purpose the original basis of such property on the
22 date that it was placed in service in a federally
23 designated Foreign Trade Zone or Sub-Zone located in
24 Illinois. No taxpayer that is eligible for the
25 deduction provided in subparagraph (M) of paragraph
26 (2) of this subsection shall be eligible for the

1 deduction provided under this subparagraph (M-1). The
2 subtraction modification available to taxpayers in any
3 year under this subsection shall be that portion of the
4 total interest paid by the borrower with respect to
5 such loan attributable to the eligible property as
6 calculated under the previous sentence;

7 (N) Two times any contribution made during the
8 taxable year to a designated zone organization to the
9 extent that the contribution (i) qualifies as a
10 charitable contribution under subsection (c) of
11 Section 170 of the Internal Revenue Code and (ii) must,
12 by its terms, be used for a project approved by the
13 Department of Commerce and Economic Opportunity under
14 Section 11 of the Illinois Enterprise Zone Act or under
15 Section 10-10 of the River Edge Redevelopment Zone Act.
16 This subparagraph (N) is exempt from the provisions of
17 Section 250;

18 (O) An amount equal to: (i) 85% for taxable years
19 ending on or before December 31, 1992, or, a percentage
20 equal to the percentage allowable under Section
21 243(a)(1) of the Internal Revenue Code of 1986 for
22 taxable years ending after December 31, 1992, of the
23 amount by which dividends included in taxable income
24 and received from a corporation that is not created or
25 organized under the laws of the United States or any
26 state or political subdivision thereof, including, for

1 taxable years ending on or after December 31, 1988,
2 dividends received or deemed received or paid or deemed
3 paid under Sections 951 through 965 of the Internal
4 Revenue Code, exceed the amount of the modification
5 provided under subparagraph (G) of paragraph (2) of
6 this subsection (b) which is related to such dividends,
7 and including, for taxable years ending on or after
8 December 31, 2008, dividends received from a captive
9 real estate investment trust; plus (ii) 100% of the
10 amount by which dividends, included in taxable income
11 and received, including, for taxable years ending on or
12 after December 31, 1988, dividends received or deemed
13 received or paid or deemed paid under Sections 951
14 through 964 of the Internal Revenue Code and including,
15 for taxable years ending on or after December 31, 2008,
16 dividends received from a captive real estate
17 investment trust, from any such corporation specified
18 in clause (i) that would but for the provisions of
19 Section 1504(b)(3) of the Internal Revenue Code be
20 treated as a member of the affiliated group which
21 includes the dividend recipient, exceed the amount of
22 the modification provided under subparagraph (G) of
23 paragraph (2) of this subsection (b) which is related
24 to such dividends. This subparagraph (O) is exempt from
25 the provisions of Section 250 of this Act;

26 (P) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax
2 Increment Allocation Redevelopment Act;

3 (Q) An amount equal to the amount of the deduction
4 used to compute the federal income tax credit for
5 restoration of substantial amounts held under claim of
6 right for the taxable year pursuant to Section 1341 of
7 the Internal Revenue Code;

8 (R) On and after July 20, 1999, in the case of an
9 attorney-in-fact with respect to whom an interinsurer
10 or a reciprocal insurer has made the election under
11 Section 835 of the Internal Revenue Code, 26 U.S.C.
12 835, an amount equal to the excess, if any, of the
13 amounts paid or incurred by that interinsurer or
14 reciprocal insurer in the taxable year to the
15 attorney-in-fact over the deduction allowed to that
16 interinsurer or reciprocal insurer with respect to the
17 attorney-in-fact under Section 835(b) of the Internal
18 Revenue Code for the taxable year; the provisions of
19 this subparagraph are exempt from the provisions of
20 Section 250;

21 (S) For taxable years ending on or after December
22 31, 1997, in the case of a Subchapter S corporation, an
23 amount equal to all amounts of income allocable to a
24 shareholder subject to the Personal Property Tax
25 Replacement Income Tax imposed by subsections (c) and
26 (d) of Section 201 of this Act, including amounts

1 allocable to organizations exempt from federal income
2 tax by reason of Section 501(a) of the Internal Revenue
3 Code. This subparagraph (S) is exempt from the
4 provisions of Section 250;

5 (T) For taxable years 2001 and thereafter, for the
6 taxable year in which the bonus depreciation deduction
7 is taken on the taxpayer's federal income tax return
8 under subsection (k) of Section 168 of the Internal
9 Revenue Code and for each applicable taxable year
10 thereafter, an amount equal to "x", where:

11 (1) "y" equals the amount of the depreciation
12 deduction taken for the taxable year on the
13 taxpayer's federal income tax return on property
14 for which the bonus depreciation deduction was
15 taken in any year under subsection (k) of Section
16 168 of the Internal Revenue Code, but not including
17 the bonus depreciation deduction;

18 (2) for taxable years ending on or before
19 December 31, 2005, "x" equals "y" multiplied by 30
20 and then divided by 70 (or "y" multiplied by
21 0.429); and

22 (3) for taxable years ending after December
23 31, 2005:

24 (i) for property on which a bonus
25 depreciation deduction of 30% of the adjusted
26 basis was taken, "x" equals "y" multiplied by

1 30 and then divided by 70 (or "y" multiplied by
2 0.429); and

3 (ii) for property on which a bonus
4 depreciation deduction of 50% of the adjusted
5 basis was taken, "x" equals "y" multiplied by
6 1.0.

7 The aggregate amount deducted under this
8 subparagraph in all taxable years for any one piece of
9 property may not exceed the amount of the bonus
10 depreciation deduction taken on that property on the
11 taxpayer's federal income tax return under subsection
12 (k) of Section 168 of the Internal Revenue Code. This
13 subparagraph (T) is exempt from the provisions of
14 Section 250;

15 (U) If the taxpayer sells, transfers, abandons, or
16 otherwise disposes of property for which the taxpayer
17 was required in any taxable year to make an addition
18 modification under subparagraph (E-10), then an amount
19 equal to that addition modification.

20 If the taxpayer continues to own property through
21 the last day of the last tax year for which the
22 taxpayer may claim a depreciation deduction for
23 federal income tax purposes and for which the taxpayer
24 was required in any taxable year to make an addition
25 modification under subparagraph (E-10), then an amount
26 equal to that addition modification.

1 The taxpayer is allowed to take the deduction under
2 this subparagraph only once with respect to any one
3 piece of property.

4 This subparagraph (U) is exempt from the
5 provisions of Section 250;

6 (V) The amount of: (i) any interest income (net of
7 the deductions allocable thereto) taken into account
8 for the taxable year with respect to a transaction with
9 a taxpayer that is required to make an addition
10 modification with respect to such transaction under
11 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
12 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
13 the amount of such addition modification, (ii) any
14 income from intangible property (net of the deductions
15 allocable thereto) taken into account for the taxable
16 year with respect to a transaction with a taxpayer that
17 is required to make an addition modification with
18 respect to such transaction under Section
19 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
20 203(d)(2)(D-8), but not to exceed the amount of such
21 addition modification, and (iii) any insurance premium
22 income (net of deductions allocable thereto) taken
23 into account for the taxable year with respect to a
24 transaction with a taxpayer that is required to make an
25 addition modification with respect to such transaction
26 under Section 203(a)(2)(D-19), Section

1 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
2 203(d)(2)(D-9), but not to exceed the amount of that
3 addition modification. This subparagraph (V) is exempt
4 from the provisions of Section 250;

5 (W) An amount equal to the interest income taken
6 into account for the taxable year (net of the
7 deductions allocable thereto) with respect to
8 transactions with (i) a foreign person who would be a
9 member of the taxpayer's unitary business group but for
10 the fact that the foreign person's business activity
11 outside the United States is 80% or more of that
12 person's total business activity and (ii) for taxable
13 years ending on or after December 31, 2008, to a person
14 who would be a member of the same unitary business
15 group but for the fact that the person is prohibited
16 under Section 1501(a)(27) from being included in the
17 unitary business group because he or she is ordinarily
18 required to apportion business income under different
19 subsections of Section 304, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(b)(2)(E-12) for
22 interest paid, accrued, or incurred, directly or
23 indirectly, to the same person. This subparagraph (W)
24 is exempt from the provisions of Section 250;

25 (X) An amount equal to the income from intangible
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to
2 transactions with (i) a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity and (ii) for taxable
7 years ending on or after December 31, 2008, to a person
8 who would be a member of the same unitary business
9 group but for the fact that the person is prohibited
10 under Section 1501(a)(27) from being included in the
11 unitary business group because he or she is ordinarily
12 required to apportion business income under different
13 subsections of Section 304, but not to exceed the
14 addition modification required to be made for the same
15 taxable year under Section 203(b)(2)(E-13) for
16 intangible expenses and costs paid, accrued, or
17 incurred, directly or indirectly, to the same foreign
18 person. This subparagraph (X) is exempt from the
19 provisions of Section 250;

20 (Y) For taxable years ending on or after December
21 31, 2011, in the case of a taxpayer who was required to
22 add back any insurance premiums under Section
23 203(b)(2)(E-14), such taxpayer may elect to subtract
24 that part of a reimbursement received from the
25 insurance company equal to the amount of the expense or
26 loss (including expenses incurred by the insurance

1 company) that would have been taken into account as a
2 deduction for federal income tax purposes if the
3 expense or loss had been uninsured. If a taxpayer makes
4 the election provided for by this subparagraph (Y), the
5 insurer to which the premiums were paid must add back
6 to income the amount subtracted by the taxpayer
7 pursuant to this subparagraph (Y). This subparagraph
8 (Y) is exempt from the provisions of Section 250; and

9 (Z) The difference between the nondeductible
10 controlled foreign corporation dividends under Section
11 965(e) (3) of the Internal Revenue Code over the taxable
12 income of the taxpayer, computed without regard to
13 Section 965(e) (2) (A) of the Internal Revenue Code, and
14 without regard to any net operating loss deduction.
15 This subparagraph (Z) is exempt from the provisions of
16 Section 250.

17 (3) Special rule. For purposes of paragraph (2) (A),
18 "gross income" in the case of a life insurance company, for
19 tax years ending on and after December 31, 1994, and prior
20 to December 31, 2011, shall mean the gross investment
21 income for the taxable year and, for tax years ending on or
22 after December 31, 2011, shall mean all amounts included in
23 life insurance gross income under Section 803(a) (3) of the
24 Internal Revenue Code.

25 (c) Trusts and estates.

1 (1) In general. In the case of a trust or estate, base
2 income means an amount equal to the taxpayer's taxable
3 income for the taxable year as modified by paragraph (2).

4 (2) Modifications. Subject to the provisions of
5 paragraph (3), the taxable income referred to in paragraph
6 (1) shall be modified by adding thereto the sum of the
7 following amounts:

8 (A) An amount equal to all amounts paid or accrued
9 to the taxpayer as interest or dividends during the
10 taxable year to the extent excluded from gross income
11 in the computation of taxable income;

12 (B) In the case of (i) an estate, \$600; (ii) a
13 trust which, under its governing instrument, is
14 required to distribute all of its income currently,
15 \$300; and (iii) any other trust, \$100, but in each such
16 case, only to the extent such amount was deducted in
17 the computation of taxable income;

18 (C) An amount equal to the amount of tax imposed by
19 this Act to the extent deducted from gross income in
20 the computation of taxable income for the taxable year;

21 (D) The amount of any net operating loss deduction
22 taken in arriving at taxable income, other than a net
23 operating loss carried forward from a taxable year
24 ending prior to December 31, 1986;

25 (E) For taxable years in which a net operating loss
26 carryback or carryforward from a taxable year ending

1 prior to December 31, 1986 is an element of taxable
2 income under paragraph (1) of subsection (e) or
3 subparagraph (E) of paragraph (2) of subsection (e),
4 the amount by which addition modifications other than
5 those provided by this subparagraph (E) exceeded
6 subtraction modifications in such taxable year, with
7 the following limitations applied in the order that
8 they are listed:

9 (i) the addition modification relating to the
10 net operating loss carried back or forward to the
11 taxable year from any taxable year ending prior to
12 December 31, 1986 shall be reduced by the amount of
13 addition modification under this subparagraph (E)
14 which related to that net operating loss and which
15 was taken into account in calculating the base
16 income of an earlier taxable year, and

17 (ii) the addition modification relating to the
18 net operating loss carried back or forward to the
19 taxable year from any taxable year ending prior to
20 December 31, 1986 shall not exceed the amount of
21 such carryback or carryforward;

22 For taxable years in which there is a net operating
23 loss carryback or carryforward from more than one other
24 taxable year ending prior to December 31, 1986, the
25 addition modification provided in this subparagraph
26 (E) shall be the sum of the amounts computed

1 independently under the preceding provisions of this
2 subparagraph (E) for each such taxable year;

3 (F) For taxable years ending on or after January 1,
4 1989, an amount equal to the tax deducted pursuant to
5 Section 164 of the Internal Revenue Code if the trust
6 or estate is claiming the same tax for purposes of the
7 Illinois foreign tax credit under Section 601 of this
8 Act;

9 (G) An amount equal to the amount of the capital
10 gain deduction allowable under the Internal Revenue
11 Code, to the extent deducted from gross income in the
12 computation of taxable income;

13 (G-5) For taxable years ending after December 31,
14 1997, an amount equal to any eligible remediation costs
15 that the trust or estate deducted in computing adjusted
16 gross income and for which the trust or estate claims a
17 credit under subsection (l) of Section 201;

18 (G-10) For taxable years 2001 and thereafter, an
19 amount equal to the bonus depreciation deduction taken
20 on the taxpayer's federal income tax return for the
21 taxable year under subsection (k) of Section 168 of the
22 Internal Revenue Code; and

23 (G-11) If the taxpayer sells, transfers, abandons,
24 or otherwise disposes of property for which the
25 taxpayer was required in any taxable year to make an
26 addition modification under subparagraph (G-10), then

1 an amount equal to the aggregate amount of the
2 deductions taken in all taxable years under
3 subparagraph (R) with respect to that property.

4 If the taxpayer continues to own property through
5 the last day of the last tax year for which the
6 taxpayer may claim a depreciation deduction for
7 federal income tax purposes and for which the taxpayer
8 was allowed in any taxable year to make a subtraction
9 modification under subparagraph (R), then an amount
10 equal to that subtraction modification.

11 The taxpayer is required to make the addition
12 modification under this subparagraph only once with
13 respect to any one piece of property;

14 (G-12) An amount equal to the amount otherwise
15 allowed as a deduction in computing base income for
16 interest paid, accrued, or incurred, directly or
17 indirectly, (i) for taxable years ending on or after
18 December 31, 2004, to a foreign person who would be a
19 member of the same unitary business group but for the
20 fact that the foreign person's business activity
21 outside the United States is 80% or more of the foreign
22 person's total business activity and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304. The addition modification
4 required by this subparagraph shall be reduced to the
5 extent that dividends were included in base income of
6 the unitary group for the same taxable year and
7 received by the taxpayer or by a member of the
8 taxpayer's unitary business group (including amounts
9 included in gross income pursuant to Sections 951
10 through 964 of the Internal Revenue Code and amounts
11 included in gross income under Section 78 of the
12 Internal Revenue Code) with respect to the stock of the
13 same person to whom the interest was paid, accrued, or
14 incurred.

15 This paragraph shall not apply to the following:

16 (i) an item of interest paid, accrued, or
17 incurred, directly or indirectly, to a person who
18 is subject in a foreign country or state, other
19 than a state which requires mandatory unitary
20 reporting, to a tax on or measured by net income
21 with respect to such interest; or

22 (ii) an item of interest paid, accrued, or
23 incurred, directly or indirectly, to a person if
24 the taxpayer can establish, based on a
25 preponderance of the evidence, both of the
26 following:

1 (a) the person, during the same taxable
2 year, paid, accrued, or incurred, the interest
3 to a person that is not a related member, and

4 (b) the transaction giving rise to the
5 interest expense between the taxpayer and the
6 person did not have as a principal purpose the
7 avoidance of Illinois income tax, and is paid
8 pursuant to a contract or agreement that
9 reflects an arm's-length interest rate and
10 terms; or

11 (iii) the taxpayer can establish, based on
12 clear and convincing evidence, that the interest
13 paid, accrued, or incurred relates to a contract or
14 agreement entered into at arm's-length rates and
15 terms and the principal purpose for the payment is
16 not federal or Illinois tax avoidance; or

17 (iv) an item of interest paid, accrued, or
18 incurred, directly or indirectly, to a person if
19 the taxpayer establishes by clear and convincing
20 evidence that the adjustments are unreasonable; or
21 if the taxpayer and the Director agree in writing
22 to the application or use of an alternative method
23 of apportionment under Section 304(f).

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

1 any tax year beginning after the effective date of
2 this amendment provided such adjustment is made
3 pursuant to regulation adopted by the Department
4 and such regulations provide methods and standards
5 by which the Department will utilize its authority
6 under Section 404 of this Act;

7 (G-13) An amount equal to the amount of intangible
8 expenses and costs otherwise allowed as a deduction in
9 computing base income, and that were paid, accrued, or
10 incurred, directly or indirectly, (i) for taxable
11 years ending on or after December 31, 2004, to a
12 foreign person who would be a member of the same
13 unitary business group but for the fact that the
14 foreign person's business activity outside the United
15 States is 80% or more of that person's total business
16 activity and (ii) for taxable years ending on or after
17 December 31, 2008, to a person who would be a member of
18 the same unitary business group but for the fact that
19 the person is prohibited under Section 1501(a)(27)
20 from being included in the unitary business group
21 because he or she is ordinarily required to apportion
22 business income under different subsections of Section
23 304. The addition modification required by this
24 subparagraph shall be reduced to the extent that
25 dividends were included in base income of the unitary
26 group for the same taxable year and received by the

1 taxpayer or by a member of the taxpayer's unitary
2 business group (including amounts included in gross
3 income pursuant to Sections 951 through 964 of the
4 Internal Revenue Code and amounts included in gross
5 income under Section 78 of the Internal Revenue Code)
6 with respect to the stock of the same person to whom
7 the intangible expenses and costs were directly or
8 indirectly paid, incurred, or accrued. The preceding
9 sentence shall not apply to the extent that the same
10 dividends caused a reduction to the addition
11 modification required under Section 203(c)(2)(G-12) of
12 this Act. As used in this subparagraph, the term
13 "intangible expenses and costs" includes: (1)
14 expenses, losses, and costs for or related to the
15 direct or indirect acquisition, use, maintenance or
16 management, ownership, sale, exchange, or any other
17 disposition of intangible property; (2) losses
18 incurred, directly or indirectly, from factoring
19 transactions or discounting transactions; (3) royalty,
20 patent, technical, and copyright fees; (4) licensing
21 fees; and (5) other similar expenses and costs. For
22 purposes of this subparagraph, "intangible property"
23 includes patents, patent applications, trade names,
24 trademarks, service marks, copyrights, mask works,
25 trade secrets, and similar types of intangible assets.

26 This paragraph shall not apply to the following:

1 (i) any item of intangible expenses or costs
2 paid, accrued, or incurred, directly or
3 indirectly, from a transaction with a person who is
4 subject in a foreign country or state, other than a
5 state which requires mandatory unitary reporting,
6 to a tax on or measured by net income with respect
7 to such item; or

8 (ii) any item of intangible expense or cost
9 paid, accrued, or incurred, directly or
10 indirectly, if the taxpayer can establish, based
11 on a preponderance of the evidence, both of the
12 following:

13 (a) the person during the same taxable
14 year paid, accrued, or incurred, the
15 intangible expense or cost to a person that is
16 not a related member, and

17 (b) the transaction giving rise to the
18 intangible expense or cost between the
19 taxpayer and the person did not have as a
20 principal purpose the avoidance of Illinois
21 income tax, and is paid pursuant to a contract
22 or agreement that reflects arm's-length terms;
23 or

24 (iii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a person if the

1 taxpayer establishes by clear and convincing
2 evidence, that the adjustments are unreasonable;
3 or if the taxpayer and the Director agree in
4 writing to the application or use of an alternative
5 method of apportionment under Section 304(f);

6 Nothing in this subsection shall preclude the
7 Director from making any other adjustment
8 otherwise allowed under Section 404 of this Act for
9 any tax year beginning after the effective date of
10 this amendment provided such adjustment is made
11 pursuant to regulation adopted by the Department
12 and such regulations provide methods and standards
13 by which the Department will utilize its authority
14 under Section 404 of this Act;

15 (G-14) For taxable years ending on or after
16 December 31, 2008, an amount equal to the amount of
17 insurance premium expenses and costs otherwise allowed
18 as a deduction in computing base income, and that were
19 paid, accrued, or incurred, directly or indirectly, to
20 a person who would be a member of the same unitary
21 business group but for the fact that the person is
22 prohibited under Section 1501(a)(27) from being
23 included in the unitary business group because he or
24 she is ordinarily required to apportion business
25 income under different subsections of Section 304. The
26 addition modification required by this subparagraph

1 shall be reduced to the extent that dividends were
2 included in base income of the unitary group for the
3 same taxable year and received by the taxpayer or by a
4 member of the taxpayer's unitary business group
5 (including amounts included in gross income under
6 Sections 951 through 964 of the Internal Revenue Code
7 and amounts included in gross income under Section 78
8 of the Internal Revenue Code) with respect to the stock
9 of the same person to whom the premiums and costs were
10 directly or indirectly paid, incurred, or accrued. The
11 preceding sentence does not apply to the extent that
12 the same dividends caused a reduction to the addition
13 modification required under Section 203(c)(2)(G-12) or
14 Section 203(c)(2)(G-13) of this Act;

15 (G-15) An amount equal to the credit allowable to
16 the taxpayer under Section 218(a) of this Act,
17 determined without regard to Section 218(c) of this
18 Act;

19 (G-16) For taxable years ending on or after
20 December 31, 2017, an amount equal to the deduction
21 allowed under Section 199 of the Internal Revenue Code
22 for the taxable year;

23 and by deducting from the total so obtained the sum of the
24 following amounts:

25 (H) An amount equal to all amounts included in such
26 total pursuant to the provisions of Sections 402(a),

1 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
2 Internal Revenue Code or included in such total as
3 distributions under the provisions of any retirement
4 or disability plan for employees of any governmental
5 agency or unit, or retirement payments to retired
6 partners, which payments are excluded in computing net
7 earnings from self employment by Section 1402 of the
8 Internal Revenue Code and regulations adopted pursuant
9 thereto;

10 (I) The valuation limitation amount;

11 (J) An amount equal to the amount of any tax
12 imposed by this Act which was refunded to the taxpayer
13 and included in such total for the taxable year;

14 (K) An amount equal to all amounts included in
15 taxable income as modified by subparagraphs (A), (B),
16 (C), (D), (E), (F) and (G) which are exempt from
17 taxation by this State either by reason of its statutes
18 or Constitution or by reason of the Constitution,
19 treaties or statutes of the United States; provided
20 that, in the case of any statute of this State that
21 exempts income derived from bonds or other obligations
22 from the tax imposed under this Act, the amount
23 exempted shall be the interest net of bond premium
24 amortization;

25 (L) With the exception of any amounts subtracted
26 under subparagraph (K), an amount equal to the sum of

1 all amounts disallowed as deductions by (i) Sections
2 171(a)(2) and 265(a)(2) of the Internal Revenue Code,
3 and all amounts of expenses allocable to interest and
4 disallowed as deductions by Section 265(a)(1) ~~265(1)~~
5 of the Internal Revenue Code; and (ii) for taxable
6 years ending on or after August 13, 1999, Sections
7 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
8 Internal Revenue Code, plus, (iii) for taxable years
9 ending on or after December 31, 2011, Section 45G(e)(3)
10 of the Internal Revenue Code and, for taxable years
11 ending on or after December 31, 2008, any amount
12 included in gross income under Section 87 of the
13 Internal Revenue Code; the provisions of this
14 subparagraph are exempt from the provisions of Section
15 250;

16 (M) An amount equal to those dividends included in
17 such total which were paid by a corporation which
18 conducts business operations in a River Edge
19 Redevelopment Zone or zones created under the River
20 Edge Redevelopment Zone Act and conducts substantially
21 all of its operations in a River Edge Redevelopment
22 Zone or zones. This subparagraph (M) is exempt from the
23 provisions of Section 250;

24 (N) An amount equal to any contribution made to a
25 job training project established pursuant to the Tax
26 Increment Allocation Redevelopment Act;

1 (O) An amount equal to those dividends included in
2 such total that were paid by a corporation that
3 conducts business operations in a federally designated
4 Foreign Trade Zone or Sub-Zone and that is designated a
5 High Impact Business located in Illinois; provided
6 that dividends eligible for the deduction provided in
7 subparagraph (M) of paragraph (2) of this subsection
8 shall not be eligible for the deduction provided under
9 this subparagraph (O);

10 (P) An amount equal to the amount of the deduction
11 used to compute the federal income tax credit for
12 restoration of substantial amounts held under claim of
13 right for the taxable year pursuant to Section 1341 of
14 the Internal Revenue Code;

15 (Q) For taxable year 1999 and thereafter, an amount
16 equal to the amount of any (i) distributions, to the
17 extent includible in gross income for federal income
18 tax purposes, made to the taxpayer because of his or
19 her status as a victim of persecution for racial or
20 religious reasons by Nazi Germany or any other Axis
21 regime or as an heir of the victim and (ii) items of
22 income, to the extent includible in gross income for
23 federal income tax purposes, attributable to, derived
24 from or in any way related to assets stolen from,
25 hidden from, or otherwise lost to a victim of
26 persecution for racial or religious reasons by Nazi

1 Germany or any other Axis regime immediately prior to,
2 during, and immediately after World War II, including,
3 but not limited to, interest on the proceeds receivable
4 as insurance under policies issued to a victim of
5 persecution for racial or religious reasons by Nazi
6 Germany or any other Axis regime by European insurance
7 companies immediately prior to and during World War II;
8 provided, however, this subtraction from federal
9 adjusted gross income does not apply to assets acquired
10 with such assets or with the proceeds from the sale of
11 such assets; provided, further, this paragraph shall
12 only apply to a taxpayer who was the first recipient of
13 such assets after their recovery and who is a victim of
14 persecution for racial or religious reasons by Nazi
15 Germany or any other Axis regime or as an heir of the
16 victim. The amount of and the eligibility for any
17 public assistance, benefit, or similar entitlement is
18 not affected by the inclusion of items (i) and (ii) of
19 this paragraph in gross income for federal income tax
20 purposes. This paragraph is exempt from the provisions
21 of Section 250;

22 (R) For taxable years 2001 and thereafter, for the
23 taxable year in which the bonus depreciation deduction
24 is taken on the taxpayer's federal income tax return
25 under subsection (k) of Section 168 of the Internal
26 Revenue Code and for each applicable taxable year

1 thereafter, an amount equal to "x", where:

2 (1) "y" equals the amount of the depreciation
3 deduction taken for the taxable year on the
4 taxpayer's federal income tax return on property
5 for which the bonus depreciation deduction was
6 taken in any year under subsection (k) of Section
7 168 of the Internal Revenue Code, but not including
8 the bonus depreciation deduction;

9 (2) for taxable years ending on or before
10 December 31, 2005, "x" equals "y" multiplied by 30
11 and then divided by 70 (or "y" multiplied by
12 0.429); and

13 (3) for taxable years ending after December
14 31, 2005:

15 (i) for property on which a bonus
16 depreciation deduction of 30% of the adjusted
17 basis was taken, "x" equals "y" multiplied by
18 30 and then divided by 70 (or "y" multiplied by
19 0.429); and

20 (ii) for property on which a bonus
21 depreciation deduction of 50% of the adjusted
22 basis was taken, "x" equals "y" multiplied by
23 1.0.

24 The aggregate amount deducted under this
25 subparagraph in all taxable years for any one piece of
26 property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code. This
4 subparagraph (R) is exempt from the provisions of
5 Section 250;

6 (S) If the taxpayer sells, transfers, abandons, or
7 otherwise disposes of property for which the taxpayer
8 was required in any taxable year to make an addition
9 modification under subparagraph (G-10), then an amount
10 equal to that addition modification.

11 If the taxpayer continues to own property through
12 the last day of the last tax year for which the
13 taxpayer may claim a depreciation deduction for
14 federal income tax purposes and for which the taxpayer
15 was required in any taxable year to make an addition
16 modification under subparagraph (G-10), then an amount
17 equal to that addition modification.

18 The taxpayer is allowed to take the deduction under
19 this subparagraph only once with respect to any one
20 piece of property.

21 This subparagraph (S) is exempt from the
22 provisions of Section 250;

23 (T) The amount of (i) any interest income (net of
24 the deductions allocable thereto) taken into account
25 for the taxable year with respect to a transaction with
26 a taxpayer that is required to make an addition

1 modification with respect to such transaction under
2 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
3 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
4 the amount of such addition modification and (ii) any
5 income from intangible property (net of the deductions
6 allocable thereto) taken into account for the taxable
7 year with respect to a transaction with a taxpayer that
8 is required to make an addition modification with
9 respect to such transaction under Section
10 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
11 203(d)(2)(D-8), but not to exceed the amount of such
12 addition modification. This subparagraph (T) is exempt
13 from the provisions of Section 250;

14 (U) An amount equal to the interest income taken
15 into account for the taxable year (net of the
16 deductions allocable thereto) with respect to
17 transactions with (i) a foreign person who would be a
18 member of the taxpayer's unitary business group but for
19 the fact the foreign person's business activity
20 outside the United States is 80% or more of that
21 person's total business activity and (ii) for taxable
22 years ending on or after December 31, 2008, to a person
23 who would be a member of the same unitary business
24 group but for the fact that the person is prohibited
25 under Section 1501(a)(27) from being included in the
26 unitary business group because he or she is ordinarily

1 required to apportion business income under different
2 subsections of Section 304, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(c)(2)(G-12) for
5 interest paid, accrued, or incurred, directly or
6 indirectly, to the same person. This subparagraph (U)
7 is exempt from the provisions of Section 250;

8 (V) An amount equal to the income from intangible
9 property taken into account for the taxable year (net
10 of the deductions allocable thereto) with respect to
11 transactions with (i) a foreign person who would be a
12 member of the taxpayer's unitary business group but for
13 the fact that the foreign person's business activity
14 outside the United States is 80% or more of that
15 person's total business activity and (ii) for taxable
16 years ending on or after December 31, 2008, to a person
17 who would be a member of the same unitary business
18 group but for the fact that the person is prohibited
19 under Section 1501(a)(27) from being included in the
20 unitary business group because he or she is ordinarily
21 required to apportion business income under different
22 subsections of Section 304, but not to exceed the
23 addition modification required to be made for the same
24 taxable year under Section 203(c)(2)(G-13) for
25 intangible expenses and costs paid, accrued, or
26 incurred, directly or indirectly, to the same foreign

1 person. This subparagraph (V) is exempt from the
2 provisions of Section 250;

3 (W) in the case of an estate, an amount equal to
4 all amounts included in such total pursuant to the
5 provisions of Section 111 of the Internal Revenue Code
6 as a recovery of items previously deducted by the
7 decedent from adjusted gross income in the computation
8 of taxable income. This subparagraph (W) is exempt from
9 Section 250;

10 (X) an amount equal to the refund included in such
11 total of any tax deducted for federal income tax
12 purposes, to the extent that deduction was added back
13 under subparagraph (F). This subparagraph (X) is
14 exempt from the provisions of Section 250; ~~and~~

15 (Y) For taxable years ending on or after December
16 31, 2011, in the case of a taxpayer who was required to
17 add back any insurance premiums under Section
18 203(c)(2)(G-14), such taxpayer may elect to subtract
19 that part of a reimbursement received from the
20 insurance company equal to the amount of the expense or
21 loss (including expenses incurred by the insurance
22 company) that would have been taken into account as a
23 deduction for federal income tax purposes if the
24 expense or loss had been uninsured. If a taxpayer makes
25 the election provided for by this subparagraph (Y), the
26 insurer to which the premiums were paid must add back

1 to income the amount subtracted by the taxpayer
2 pursuant to this subparagraph (Y). This subparagraph
3 (Y) is exempt from the provisions of Section 250; and ~~and~~

4 (Z) For taxable years beginning after December 31,
5 2018 and before January 1, 2026, the amount of excess
6 business loss of the taxpayer disallowed as a deduction
7 by Section 461(1)(1)(B) of the Internal Revenue Code.

8 (3) Limitation. The amount of any modification
9 otherwise required under this subsection shall, under
10 regulations prescribed by the Department, be adjusted by
11 any amounts included therein which were properly paid,
12 credited, or required to be distributed, or permanently set
13 aside for charitable purposes pursuant to Internal Revenue
14 Code Section 642(c) during the taxable year.

15 (d) Partnerships.

16 (1) In general. In the case of a partnership, base
17 income means an amount equal to the taxpayer's taxable
18 income for the taxable year as modified by paragraph (2).

19 (2) Modifications. The taxable income referred to in
20 paragraph (1) shall be modified by adding thereto the sum
21 of the following amounts:

22 (A) An amount equal to all amounts paid or accrued
23 to the taxpayer as interest or dividends during the
24 taxable year to the extent excluded from gross income
25 in the computation of taxable income;

1 (B) An amount equal to the amount of tax imposed by
2 this Act to the extent deducted from gross income for
3 the taxable year;

4 (C) The amount of deductions allowed to the
5 partnership pursuant to Section 707 (c) of the Internal
6 Revenue Code in calculating its taxable income;

7 (D) An amount equal to the amount of the capital
8 gain deduction allowable under the Internal Revenue
9 Code, to the extent deducted from gross income in the
10 computation of taxable income;

11 (D-5) For taxable years 2001 and thereafter, an
12 amount equal to the bonus depreciation deduction taken
13 on the taxpayer's federal income tax return for the
14 taxable year under subsection (k) of Section 168 of the
15 Internal Revenue Code;

16 (D-6) If the taxpayer sells, transfers, abandons,
17 or otherwise disposes of property for which the
18 taxpayer was required in any taxable year to make an
19 addition modification under subparagraph (D-5), then
20 an amount equal to the aggregate amount of the
21 deductions taken in all taxable years under
22 subparagraph (D) with respect to that property.

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer

1 was allowed in any taxable year to make a subtraction
2 modification under subparagraph (O), then an amount
3 equal to that subtraction modification.

4 The taxpayer is required to make the addition
5 modification under this subparagraph only once with
6 respect to any one piece of property;

7 (D-7) An amount equal to the amount otherwise
8 allowed as a deduction in computing base income for
9 interest paid, accrued, or incurred, directly or
10 indirectly, (i) for taxable years ending on or after
11 December 31, 2004, to a foreign person who would be a
12 member of the same unitary business group but for the
13 fact the foreign person's business activity outside
14 the United States is 80% or more of the foreign
15 person's total business activity and (ii) for taxable
16 years ending on or after December 31, 2008, to a person
17 who would be a member of the same unitary business
18 group but for the fact that the person is prohibited
19 under Section 1501(a)(27) from being included in the
20 unitary business group because he or she is ordinarily
21 required to apportion business income under different
22 subsections of Section 304. The addition modification
23 required by this subparagraph shall be reduced to the
24 extent that dividends were included in base income of
25 the unitary group for the same taxable year and
26 received by the taxpayer or by a member of the

1 taxpayer's unitary business group (including amounts
2 included in gross income pursuant to Sections 951
3 through 964 of the Internal Revenue Code and amounts
4 included in gross income under Section 78 of the
5 Internal Revenue Code) with respect to the stock of the
6 same person to whom the interest was paid, accrued, or
7 incurred.

8 This paragraph shall not apply to the following:

9 (i) an item of interest paid, accrued, or
10 incurred, directly or indirectly, to a person who
11 is subject in a foreign country or state, other
12 than a state which requires mandatory unitary
13 reporting, to a tax on or measured by net income
14 with respect to such interest; or

15 (ii) an item of interest paid, accrued, or
16 incurred, directly or indirectly, to a person if
17 the taxpayer can establish, based on a
18 preponderance of the evidence, both of the
19 following:

20 (a) the person, during the same taxable
21 year, paid, accrued, or incurred, the interest
22 to a person that is not a related member, and

23 (b) the transaction giving rise to the
24 interest expense between the taxpayer and the
25 person did not have as a principal purpose the
26 avoidance of Illinois income tax, and is paid

1 pursuant to a contract or agreement that
2 reflects an arm's-length interest rate and
3 terms; or

4 (iii) the taxpayer can establish, based on
5 clear and convincing evidence, that the interest
6 paid, accrued, or incurred relates to a contract or
7 agreement entered into at arm's-length rates and
8 terms and the principal purpose for the payment is
9 not federal or Illinois tax avoidance; or

10 (iv) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a person if
12 the taxpayer establishes by clear and convincing
13 evidence that the adjustments are unreasonable; or
14 if the taxpayer and the Director agree in writing
15 to the application or use of an alternative method
16 of apportionment under Section 304(f).

17 Nothing in this subsection shall preclude the
18 Director from making any other adjustment
19 otherwise allowed under Section 404 of this Act for
20 any tax year beginning after the effective date of
21 this amendment provided such adjustment is made
22 pursuant to regulation adopted by the Department
23 and such regulations provide methods and standards
24 by which the Department will utilize its authority
25 under Section 404 of this Act; and

26 (D-8) An amount equal to the amount of intangible

1 expenses and costs otherwise allowed as a deduction in
2 computing base income, and that were paid, accrued, or
3 incurred, directly or indirectly, (i) for taxable
4 years ending on or after December 31, 2004, to a
5 foreign person who would be a member of the same
6 unitary business group but for the fact that the
7 foreign person's business activity outside the United
8 States is 80% or more of that person's total business
9 activity and (ii) for taxable years ending on or after
10 December 31, 2008, to a person who would be a member of
11 the same unitary business group but for the fact that
12 the person is prohibited under Section 1501(a)(27)
13 from being included in the unitary business group
14 because he or she is ordinarily required to apportion
15 business income under different subsections of Section
16 304. The addition modification required by this
17 subparagraph shall be reduced to the extent that
18 dividends were included in base income of the unitary
19 group for the same taxable year and received by the
20 taxpayer or by a member of the taxpayer's unitary
21 business group (including amounts included in gross
22 income pursuant to Sections 951 through 964 of the
23 Internal Revenue Code and amounts included in gross
24 income under Section 78 of the Internal Revenue Code)
25 with respect to the stock of the same person to whom
26 the intangible expenses and costs were directly or

1 indirectly paid, incurred or accrued. The preceding
2 sentence shall not apply to the extent that the same
3 dividends caused a reduction to the addition
4 modification required under Section 203(d)(2)(D-7) of
5 this Act. As used in this subparagraph, the term
6 "intangible expenses and costs" includes (1) expenses,
7 losses, and costs for, or related to, the direct or
8 indirect acquisition, use, maintenance or management,
9 ownership, sale, exchange, or any other disposition of
10 intangible property; (2) losses incurred, directly or
11 indirectly, from factoring transactions or discounting
12 transactions; (3) royalty, patent, technical, and
13 copyright fees; (4) licensing fees; and (5) other
14 similar expenses and costs. For purposes of this
15 subparagraph, "intangible property" includes patents,
16 patent applications, trade names, trademarks, service
17 marks, copyrights, mask works, trade secrets, and
18 similar types of intangible assets;

19 This paragraph shall not apply to the following:

20 (i) any item of intangible expenses or costs
21 paid, accrued, or incurred, directly or
22 indirectly, from a transaction with a person who is
23 subject in a foreign country or state, other than a
24 state which requires mandatory unitary reporting,
25 to a tax on or measured by net income with respect
26 to such item; or

1 (ii) any item of intangible expense or cost
2 paid, accrued, or incurred, directly or
3 indirectly, if the taxpayer can establish, based
4 on a preponderance of the evidence, both of the
5 following:

6 (a) the person during the same taxable
7 year paid, accrued, or incurred, the
8 intangible expense or cost to a person that is
9 not a related member, and

10 (b) the transaction giving rise to the
11 intangible expense or cost between the
12 taxpayer and the person did not have as a
13 principal purpose the avoidance of Illinois
14 income tax, and is paid pursuant to a contract
15 or agreement that reflects arm's-length terms;
16 or

17 (iii) any item of intangible expense or cost
18 paid, accrued, or incurred, directly or
19 indirectly, from a transaction with a person if the
20 taxpayer establishes by clear and convincing
21 evidence, that the adjustments are unreasonable;
22 or if the taxpayer and the Director agree in
23 writing to the application or use of an alternative
24 method of apportionment under Section 304(f);

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment

1 otherwise allowed under Section 404 of this Act for
2 any tax year beginning after the effective date of
3 this amendment provided such adjustment is made
4 pursuant to regulation adopted by the Department
5 and such regulations provide methods and standards
6 by which the Department will utilize its authority
7 under Section 404 of this Act;

8 (D-9) For taxable years ending on or after December
9 31, 2008, an amount equal to the amount of insurance
10 premium expenses and costs otherwise allowed as a
11 deduction in computing base income, and that were paid,
12 accrued, or incurred, directly or indirectly, to a
13 person who would be a member of the same unitary
14 business group but for the fact that the person is
15 prohibited under Section 1501(a)(27) from being
16 included in the unitary business group because he or
17 she is ordinarily required to apportion business
18 income under different subsections of Section 304. The
19 addition modification required by this subparagraph
20 shall be reduced to the extent that dividends were
21 included in base income of the unitary group for the
22 same taxable year and received by the taxpayer or by a
23 member of the taxpayer's unitary business group
24 (including amounts included in gross income under
25 Sections 951 through 964 of the Internal Revenue Code
26 and amounts included in gross income under Section 78

1 of the Internal Revenue Code) with respect to the stock
2 of the same person to whom the premiums and costs were
3 directly or indirectly paid, incurred, or accrued. The
4 preceding sentence does not apply to the extent that
5 the same dividends caused a reduction to the addition
6 modification required under Section 203(d) (2) (D-7) or
7 Section 203(d) (2) (D-8) of this Act;

8 (D-10) An amount equal to the credit allowable to
9 the taxpayer under Section 218(a) of this Act,
10 determined without regard to Section 218(c) of this
11 Act;

12 (D-11) For taxable years ending on or after
13 December 31, 2017, an amount equal to the deduction
14 allowed under Section 199 of the Internal Revenue Code
15 for the taxable year;

16 and by deducting from the total so obtained the following
17 amounts:

18 (E) The valuation limitation amount;

19 (F) An amount equal to the amount of any tax
20 imposed by this Act which was refunded to the taxpayer
21 and included in such total for the taxable year;

22 (G) An amount equal to all amounts included in
23 taxable income as modified by subparagraphs (A), (B),
24 (C) and (D) which are exempt from taxation by this
25 State either by reason of its statutes or Constitution
26 or by reason of the Constitution, treaties or statutes

1 of the United States; provided that, in the case of any
2 statute of this State that exempts income derived from
3 bonds or other obligations from the tax imposed under
4 this Act, the amount exempted shall be the interest net
5 of bond premium amortization;

6 (H) Any income of the partnership which
7 constitutes personal service income as defined in
8 Section 1348(b)(1) of the Internal Revenue Code (as in
9 effect December 31, 1981) or a reasonable allowance for
10 compensation paid or accrued for services rendered by
11 partners to the partnership, whichever is greater;
12 this subparagraph (H) is exempt from the provisions of
13 Section 250;

14 (I) An amount equal to all amounts of income
15 distributable to an entity subject to the Personal
16 Property Tax Replacement Income Tax imposed by
17 subsections (c) and (d) of Section 201 of this Act
18 including amounts distributable to organizations
19 exempt from federal income tax by reason of Section
20 501(a) of the Internal Revenue Code; this subparagraph
21 (I) is exempt from the provisions of Section 250;

22 (J) With the exception of any amounts subtracted
23 under subparagraph (G), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal
26 Revenue Code, and all amounts of expenses allocable to

1 interest and disallowed as deductions by Section
2 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)
3 for taxable years ending on or after August 13, 1999,
4 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
5 the Internal Revenue Code, plus, (iii) for taxable
6 years ending on or after December 31, 2011, Section
7 45G(e)(3) of the Internal Revenue Code and, for taxable
8 years ending on or after December 31, 2008, any amount
9 included in gross income under Section 87 of the
10 Internal Revenue Code; the provisions of this
11 subparagraph are exempt from the provisions of Section
12 250;

13 (K) An amount equal to those dividends included in
14 such total which were paid by a corporation which
15 conducts business operations in a River Edge
16 Redevelopment Zone or zones created under the River
17 Edge Redevelopment Zone Act and conducts substantially
18 all of its operations from a River Edge Redevelopment
19 Zone or zones. This subparagraph (K) is exempt from the
20 provisions of Section 250;

21 (L) An amount equal to any contribution made to a
22 job training project established pursuant to the Real
23 Property Tax Increment Allocation Redevelopment Act;

24 (M) An amount equal to those dividends included in
25 such total that were paid by a corporation that
26 conducts business operations in a federally designated

1 Foreign Trade Zone or Sub-Zone and that is designated a
2 High Impact Business located in Illinois; provided
3 that dividends eligible for the deduction provided in
4 subparagraph (K) of paragraph (2) of this subsection
5 shall not be eligible for the deduction provided under
6 this subparagraph (M);

7 (N) An amount equal to the amount of the deduction
8 used to compute the federal income tax credit for
9 restoration of substantial amounts held under claim of
10 right for the taxable year pursuant to Section 1341 of
11 the Internal Revenue Code;

12 (O) For taxable years 2001 and thereafter, for the
13 taxable year in which the bonus depreciation deduction
14 is taken on the taxpayer's federal income tax return
15 under subsection (k) of Section 168 of the Internal
16 Revenue Code and for each applicable taxable year
17 thereafter, an amount equal to "x", where:

18 (1) "y" equals the amount of the depreciation
19 deduction taken for the taxable year on the
20 taxpayer's federal income tax return on property
21 for which the bonus depreciation deduction was
22 taken in any year under subsection (k) of Section
23 168 of the Internal Revenue Code, but not including
24 the bonus depreciation deduction;

25 (2) for taxable years ending on or before
26 December 31, 2005, "x" equals "y" multiplied by 30

1 and then divided by 70 (or "y" multiplied by
2 0.429); and

3 (3) for taxable years ending after December
4 31, 2005:

5 (i) for property on which a bonus
6 depreciation deduction of 30% of the adjusted
7 basis was taken, "x" equals "y" multiplied by
8 30 and then divided by 70 (or "y" multiplied by
9 0.429); and

10 (ii) for property on which a bonus
11 depreciation deduction of 50% of the adjusted
12 basis was taken, "x" equals "y" multiplied by
13 1.0.

14 The aggregate amount deducted under this
15 subparagraph in all taxable years for any one piece of
16 property may not exceed the amount of the bonus
17 depreciation deduction taken on that property on the
18 taxpayer's federal income tax return under subsection
19 (k) of Section 168 of the Internal Revenue Code. This
20 subparagraph (O) is exempt from the provisions of
21 Section 250;

22 (P) If the taxpayer sells, transfers, abandons, or
23 otherwise disposes of property for which the taxpayer
24 was required in any taxable year to make an addition
25 modification under subparagraph (D-5), then an amount
26 equal to that addition modification.

1 If the taxpayer continues to own property through
2 the last day of the last tax year for which the
3 taxpayer may claim a depreciation deduction for
4 federal income tax purposes and for which the taxpayer
5 was required in any taxable year to make an addition
6 modification under subparagraph (D-5), then an amount
7 equal to that addition modification.

8 The taxpayer is allowed to take the deduction under
9 this subparagraph only once with respect to any one
10 piece of property.

11 This subparagraph (P) is exempt from the
12 provisions of Section 250;

13 (Q) The amount of (i) any interest income (net of
14 the deductions allocable thereto) taken into account
15 for the taxable year with respect to a transaction with
16 a taxpayer that is required to make an addition
17 modification with respect to such transaction under
18 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
19 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
20 the amount of such addition modification and (ii) any
21 income from intangible property (net of the deductions
22 allocable thereto) taken into account for the taxable
23 year with respect to a transaction with a taxpayer that
24 is required to make an addition modification with
25 respect to such transaction under Section
26 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or

1 203(d)(2)(D-8), but not to exceed the amount of such
2 addition modification. This subparagraph (Q) is exempt
3 from Section 250;

4 (R) An amount equal to the interest income taken
5 into account for the taxable year (net of the
6 deductions allocable thereto) with respect to
7 transactions with (i) a foreign person who would be a
8 member of the taxpayer's unitary business group but for
9 the fact that the foreign person's business activity
10 outside the United States is 80% or more of that
11 person's total business activity and (ii) for taxable
12 years ending on or after December 31, 2008, to a person
13 who would be a member of the same unitary business
14 group but for the fact that the person is prohibited
15 under Section 1501(a)(27) from being included in the
16 unitary business group because he or she is ordinarily
17 required to apportion business income under different
18 subsections of Section 304, but not to exceed the
19 addition modification required to be made for the same
20 taxable year under Section 203(d)(2)(D-7) for interest
21 paid, accrued, or incurred, directly or indirectly, to
22 the same person. This subparagraph (R) is exempt from
23 Section 250;

24 (S) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the deductions allocable thereto) with respect to

1 transactions with (i) a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact that the foreign person's business activity
4 outside the United States is 80% or more of that
5 person's total business activity and (ii) for taxable
6 years ending on or after December 31, 2008, to a person
7 who would be a member of the same unitary business
8 group but for the fact that the person is prohibited
9 under Section 1501(a)(27) from being included in the
10 unitary business group because he or she is ordinarily
11 required to apportion business income under different
12 subsections of Section 304, but not to exceed the
13 addition modification required to be made for the same
14 taxable year under Section 203(d)(2)(D-8) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same person.
17 This subparagraph (S) is exempt from Section 250; and

18 (T) For taxable years ending on or after December
19 31, 2011, in the case of a taxpayer who was required to
20 add back any insurance premiums under Section
21 203(d)(2)(D-9), such taxpayer may elect to subtract
22 that part of a reimbursement received from the
23 insurance company equal to the amount of the expense or
24 loss (including expenses incurred by the insurance
25 company) that would have been taken into account as a
26 deduction for federal income tax purposes if the

1 expense or loss had been uninsured. If a taxpayer makes
2 the election provided for by this subparagraph (T), the
3 insurer to which the premiums were paid must add back
4 to income the amount subtracted by the taxpayer
5 pursuant to this subparagraph (T). This subparagraph
6 (T) is exempt from the provisions of Section 250.

7 (e) Gross income; adjusted gross income; taxable income.

8 (1) In general. Subject to the provisions of paragraph
9 (2) and subsection (b) (3), for purposes of this Section and
10 Section 803(e), a taxpayer's gross income, adjusted gross
11 income, or taxable income for the taxable year shall mean
12 the amount of gross income, adjusted gross income or
13 taxable income properly reportable for federal income tax
14 purposes for the taxable year under the provisions of the
15 Internal Revenue Code. Taxable income may be less than
16 zero. However, for taxable years ending on or after
17 December 31, 1986, net operating loss carryforwards from
18 taxable years ending prior to December 31, 1986, may not
19 exceed the sum of federal taxable income for the taxable
20 year before net operating loss deduction, plus the excess
21 of addition modifications over subtraction modifications
22 for the taxable year. For taxable years ending prior to
23 December 31, 1986, taxable income may never be an amount in
24 excess of the net operating loss for the taxable year as
25 defined in subsections (c) and (d) of Section 172 of the

1 Internal Revenue Code, provided that when taxable income of
2 a corporation (other than a Subchapter S corporation),
3 trust, or estate is less than zero and addition
4 modifications, other than those provided by subparagraph
5 (E) of paragraph (2) of subsection (b) for corporations or
6 subparagraph (E) of paragraph (2) of subsection (c) for
7 trusts and estates, exceed subtraction modifications, an
8 addition modification must be made under those
9 subparagraphs for any other taxable year to which the
10 taxable income less than zero (net operating loss) is
11 applied under Section 172 of the Internal Revenue Code or
12 under subparagraph (E) of paragraph (2) of this subsection
13 (e) applied in conjunction with Section 172 of the Internal
14 Revenue Code.

15 (2) Special rule. For purposes of paragraph (1) of this
16 subsection, the taxable income properly reportable for
17 federal income tax purposes shall mean:

18 (A) Certain life insurance companies. In the case
19 of a life insurance company subject to the tax imposed
20 by Section 801 of the Internal Revenue Code, life
21 insurance company taxable income, plus the amount of
22 distribution from pre-1984 policyholder surplus
23 accounts as calculated under Section 815a of the
24 Internal Revenue Code;

25 (B) Certain other insurance companies. In the case
26 of mutual insurance companies subject to the tax

1 imposed by Section 831 of the Internal Revenue Code,
2 insurance company taxable income;

3 (C) Regulated investment companies. In the case of
4 a regulated investment company subject to the tax
5 imposed by Section 852 of the Internal Revenue Code,
6 investment company taxable income;

7 (D) Real estate investment trusts. In the case of a
8 real estate investment trust subject to the tax imposed
9 by Section 857 of the Internal Revenue Code, real
10 estate investment trust taxable income;

11 (E) Consolidated corporations. In the case of a
12 corporation which is a member of an affiliated group of
13 corporations filing a consolidated income tax return
14 for the taxable year for federal income tax purposes,
15 taxable income determined as if such corporation had
16 filed a separate return for federal income tax purposes
17 for the taxable year and each preceding taxable year
18 for which it was a member of an affiliated group. For
19 purposes of this subparagraph, the taxpayer's separate
20 taxable income shall be determined as if the election
21 provided by Section 243(b)(2) of the Internal Revenue
22 Code had been in effect for all such years;

23 (F) Cooperatives. In the case of a cooperative
24 corporation or association, the taxable income of such
25 organization determined in accordance with the
26 provisions of Section 1381 through 1388 of the Internal

1 Revenue Code, but without regard to the prohibition
2 against offsetting losses from patronage activities
3 against income from nonpatronage activities; except
4 that a cooperative corporation or association may make
5 an election to follow its federal income tax treatment
6 of patronage losses and nonpatronage losses. In the
7 event such election is made, such losses shall be
8 computed and carried over in a manner consistent with
9 subsection (a) of Section 207 of this Act and
10 apportioned by the apportionment factor reported by
11 the cooperative on its Illinois income tax return filed
12 for the taxable year in which the losses are incurred.
13 The election shall be effective for all taxable years
14 with original returns due on or after the date of the
15 election. In addition, the cooperative may file an
16 amended return or returns, as allowed under this Act,
17 to provide that the election shall be effective for
18 losses incurred or carried forward for taxable years
19 occurring prior to the date of the election. Once made,
20 the election may only be revoked upon approval of the
21 Director. The Department shall adopt rules setting
22 forth requirements for documenting the elections and
23 any resulting Illinois net loss and the standards to be
24 used by the Director in evaluating requests to revoke
25 elections. Public Act 96-932 is declaratory of
26 existing law;

1 (G) Subchapter S corporations. In the case of: (i)
2 a Subchapter S corporation for which there is in effect
3 an election for the taxable year under Section 1362 of
4 the Internal Revenue Code, the taxable income of such
5 corporation determined in accordance with Section
6 1363(b) of the Internal Revenue Code, except that
7 taxable income shall take into account those items
8 which are required by Section 1363(b)(1) of the
9 Internal Revenue Code to be separately stated; and (ii)
10 a Subchapter S corporation for which there is in effect
11 a federal election to opt out of the provisions of the
12 Subchapter S Revision Act of 1982 and have applied
13 instead the prior federal Subchapter S rules as in
14 effect on July 1, 1982, the taxable income of such
15 corporation determined in accordance with the federal
16 Subchapter S rules as in effect on July 1, 1982; and

17 (H) Partnerships. In the case of a partnership,
18 taxable income determined in accordance with Section
19 703 of the Internal Revenue Code, except that taxable
20 income shall take into account those items which are
21 required by Section 703(a)(1) to be separately stated
22 but which would be taken into account by an individual
23 in calculating his taxable income.

24 (3) Recapture of business expenses on disposition of
25 asset or business. Notwithstanding any other law to the
26 contrary, if in prior years income from an asset or

1 business has been classified as business income and in a
2 later year is demonstrated to be non-business income, then
3 all expenses, without limitation, deducted in such later
4 year and in the 2 immediately preceding taxable years
5 related to that asset or business that generated the
6 non-business income shall be added back and recaptured as
7 business income in the year of the disposition of the asset
8 or business. Such amount shall be apportioned to Illinois
9 using the greater of the apportionment fraction computed
10 for the business under Section 304 of this Act for the
11 taxable year or the average of the apportionment fractions
12 computed for the business under Section 304 of this Act for
13 the taxable year and for the 2 immediately preceding
14 taxable years.

15 (f) Valuation limitation amount.

16 (1) In general. The valuation limitation amount
17 referred to in subsections (a)(2)(G), (c)(2)(I) and
18 (d)(2)(E) is an amount equal to:

19 (A) The sum of the pre-August 1, 1969 appreciation
20 amounts (to the extent consisting of gain reportable
21 under the provisions of Section 1245 or 1250 of the
22 Internal Revenue Code) for all property in respect of
23 which such gain was reported for the taxable year; plus

24 (B) The lesser of (i) the sum of the pre-August 1,
25 1969 appreciation amounts (to the extent consisting of

1 capital gain) for all property in respect of which such
2 gain was reported for federal income tax purposes for
3 the taxable year, or (ii) the net capital gain for the
4 taxable year, reduced in either case by any amount of
5 such gain included in the amount determined under
6 subsection (a) (2) (F) or (c) (2) (H).

7 (2) Pre-August 1, 1969 appreciation amount.

8 (A) If the fair market value of property referred
9 to in paragraph (1) was readily ascertainable on August
10 1, 1969, the pre-August 1, 1969 appreciation amount for
11 such property is the lesser of (i) the excess of such
12 fair market value over the taxpayer's basis (for
13 determining gain) for such property on that date
14 (determined under the Internal Revenue Code as in
15 effect on that date), or (ii) the total gain realized
16 and reportable for federal income tax purposes in
17 respect of the sale, exchange or other disposition of
18 such property.

19 (B) If the fair market value of property referred
20 to in paragraph (1) was not readily ascertainable on
21 August 1, 1969, the pre-August 1, 1969 appreciation
22 amount for such property is that amount which bears the
23 same ratio to the total gain reported in respect of the
24 property for federal income tax purposes for the
25 taxable year, as the number of full calendar months in
26 that part of the taxpayer's holding period for the

1 property ending July 31, 1969 bears to the number of
2 full calendar months in the taxpayer's entire holding
3 period for the property.

4 (C) The Department shall prescribe such
5 regulations as may be necessary to carry out the
6 purposes of this paragraph.

7 (g) Double deductions. Unless specifically provided
8 otherwise, nothing in this Section shall permit the same item
9 to be deducted more than once.

10 (h) Legislative intention. Except as expressly provided by
11 this Section there shall be no modifications or limitations on
12 the amounts of income, gain, loss or deduction taken into
13 account in determining gross income, adjusted gross income or
14 taxable income for federal income tax purposes for the taxable
15 year, or in the amount of such items entering into the
16 computation of base income and net income under this Act for
17 such taxable year, whether in respect of property values as of
18 August 1, 1969 or otherwise.

19 (Source: P.A. 100-22, eff. 7-6-17; 100-905, eff. 8-17-18;
20 revised 10-29-18.)

21 Section 10-10. The Use Tax Act is amended by changing
22 Section 2 and by adding Section 2d as follows:

1 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

2 Sec. 2. Definitions.

3 "Use" means the exercise by any person of any right or
4 power over tangible personal property incident to the ownership
5 of that property, except that it does not include the sale of
6 such property in any form as tangible personal property in the
7 regular course of business to the extent that such property is
8 not first subjected to a use for which it was purchased, and
9 does not include the use of such property by its owner for
10 demonstration purposes: Provided that the property purchased
11 is deemed to be purchased for the purpose of resale, despite
12 first being used, to the extent to which it is resold as an
13 ingredient of an intentionally produced product or by-product
14 of manufacturing. "Use" does not mean the demonstration use or
15 interim use of tangible personal property by a retailer before
16 he sells that tangible personal property. For watercraft or
17 aircraft, if the period of demonstration use or interim use by
18 the retailer exceeds 18 months, the retailer shall pay on the
19 retailers' original cost price the tax imposed by this Act, and
20 no credit for that tax is permitted if the watercraft or
21 aircraft is subsequently sold by the retailer. "Use" does not
22 mean the physical incorporation of tangible personal property,
23 to the extent not first subjected to a use for which it was
24 purchased, as an ingredient or constituent, into other tangible
25 personal property (a) which is sold in the regular course of
26 business or (b) which the person incorporating such ingredient

1 or constituent therein has undertaken at the time of such
2 purchase to cause to be transported in interstate commerce to
3 destinations outside the State of Illinois: Provided that the
4 property purchased is deemed to be purchased for the purpose of
5 resale, despite first being used, to the extent to which it is
6 resold as an ingredient of an intentionally produced product or
7 by-product of manufacturing.

8 "Watercraft" means a Class 2, Class 3, or Class 4
9 watercraft as defined in Section 3-2 of the Boat Registration
10 and Safety Act, a personal watercraft, or any boat equipped
11 with an inboard motor.

12 "Purchase at retail" means the acquisition of the ownership
13 of or title to tangible personal property through a sale at
14 retail.

15 "Purchaser" means anyone who, through a sale at retail,
16 acquires the ownership of tangible personal property for a
17 valuable consideration.

18 "Sale at retail" means any transfer of the ownership of or
19 title to tangible personal property to a purchaser, for the
20 purpose of use, and not for the purpose of resale in any form
21 as tangible personal property to the extent not first subjected
22 to a use for which it was purchased, for a valuable
23 consideration: Provided that the property purchased is deemed
24 to be purchased for the purpose of resale, despite first being
25 used, to the extent to which it is resold as an ingredient of
26 an intentionally produced product or by-product of

1 manufacturing. For this purpose, slag produced as an incident
2 to manufacturing pig iron or steel and sold is considered to be
3 an intentionally produced by-product of manufacturing. "Sale
4 at retail" includes any such transfer made for resale unless
5 made in compliance with Section 2c of the Retailers' Occupation
6 Tax Act, as incorporated by reference into Section 12 of this
7 Act. Transactions whereby the possession of the property is
8 transferred but the seller retains the title as security for
9 payment of the selling price are sales.

10 "Sale at retail" shall also be construed to include any
11 Illinois florist's sales transaction in which the purchase
12 order is received in Illinois by a florist and the sale is for
13 use or consumption, but the Illinois florist has a florist in
14 another state deliver the property to the purchaser or the
15 purchaser's donee in such other state.

16 Nonreusable tangible personal property that is used by
17 persons engaged in the business of operating a restaurant,
18 cafeteria, or drive-in is a sale for resale when it is
19 transferred to customers in the ordinary course of business as
20 part of the sale of food or beverages and is used to deliver,
21 package, or consume food or beverages, regardless of where
22 consumption of the food or beverages occurs. Examples of those
23 items include, but are not limited to nonreusable, paper and
24 plastic cups, plates, baskets, boxes, sleeves, buckets or other
25 containers, utensils, straws, placemats, napkins, doggie bags,
26 and wrapping or packaging materials that are transferred to

1 customers as part of the sale of food or beverages in the
2 ordinary course of business.

3 The purchase, employment and transfer of such tangible
4 personal property as newsprint and ink for the primary purpose
5 of conveying news (with or without other information) is not a
6 purchase, use or sale of tangible personal property.

7 "Selling price" means the consideration for a sale valued
8 in money whether received in money or otherwise, including
9 cash, credits, property other than as hereinafter provided, and
10 services, but not including the value of or credit given for
11 traded-in tangible personal property where the item that is
12 traded-in is of like kind and character as that which is being
13 sold, and shall be determined without any deduction on account
14 of the cost of the property sold, the cost of materials used,
15 labor or service cost or any other expense whatsoever, but does
16 not include interest or finance charges which appear as
17 separate items on the bill of sale or sales contract nor
18 charges that are added to prices by sellers on account of the
19 seller's tax liability under the "Retailers' Occupation Tax
20 Act", or on account of the seller's duty to collect, from the
21 purchaser, the tax that is imposed by this Act, or, except as
22 otherwise provided with respect to any cigarette tax imposed by
23 a home rule unit, on account of the seller's tax liability
24 under any local occupation tax administered by the Department,
25 or, except as otherwise provided with respect to any cigarette
26 tax imposed by a home rule unit on account of the seller's duty

1 to collect, from the purchasers, the tax that is imposed under
2 any local use tax administered by the Department. Effective
3 December 1, 1985, "selling price" shall include charges that
4 are added to prices by sellers on account of the seller's tax
5 liability under the Cigarette Tax Act, on account of the
6 seller's duty to collect, from the purchaser, the tax imposed
7 under the Cigarette Use Tax Act, and on account of the seller's
8 duty to collect, from the purchaser, any cigarette tax imposed
9 by a home rule unit.

10 Notwithstanding any law to the contrary, for any motor
11 vehicle, as defined in Section 1-146 of the Vehicle Code, that
12 is sold on or after January 1, 2015 for the purpose of leasing
13 the vehicle for a defined period that is longer than one year
14 and (1) is a motor vehicle of the second division that: (A) is
15 a self-contained motor vehicle designed or permanently
16 converted to provide living quarters for recreational,
17 camping, or travel use, with direct walk through access to the
18 living quarters from the driver's seat; (B) is of the van
19 configuration designed for the transportation of not less than
20 7 nor more than 16 passengers; or (C) has a gross vehicle
21 weight rating of 8,000 pounds or less or (2) is a motor vehicle
22 of the first division, "selling price" or "amount of sale"
23 means the consideration received by the lessor pursuant to the
24 lease contract, including amounts due at lease signing and all
25 monthly or other regular payments charged over the term of the
26 lease. Also included in the selling price is any amount

1 received by the lessor from the lessee for the leased vehicle
2 that is not calculated at the time the lease is executed,
3 including, but not limited to, excess mileage charges and
4 charges for excess wear and tear. For sales that occur in
5 Illinois, with respect to any amount received by the lessor
6 from the lessee for the leased vehicle that is not calculated
7 at the time the lease is executed, the lessor who purchased the
8 motor vehicle does not incur the tax imposed by the Use Tax Act
9 on those amounts, and the retailer who makes the retail sale of
10 the motor vehicle to the lessor is not required to collect the
11 tax imposed by this Act or to pay the tax imposed by the
12 Retailers' Occupation Tax Act on those amounts. However, the
13 lessor who purchased the motor vehicle assumes the liability
14 for reporting and paying the tax on those amounts directly to
15 the Department in the same form (Illinois Retailers' Occupation
16 Tax, and local retailers' occupation taxes, if applicable) in
17 which the retailer would have reported and paid such tax if the
18 retailer had accounted for the tax to the Department. For
19 amounts received by the lessor from the lessee that are not
20 calculated at the time the lease is executed, the lessor must
21 file the return and pay the tax to the Department by the due
22 date otherwise required by this Act for returns other than
23 transaction returns. If the retailer is entitled under this Act
24 to a discount for collecting and remitting the tax imposed
25 under this Act to the Department with respect to the sale of
26 the motor vehicle to the lessor, then the right to the discount

1 provided in this Act shall be transferred to the lessor with
2 respect to the tax paid by the lessor for any amount received
3 by the lessor from the lessee for the leased vehicle that is
4 not calculated at the time the lease is executed; provided that
5 the discount is only allowed if the return is timely filed and
6 for amounts timely paid. The "selling price" of a motor vehicle
7 that is sold on or after January 1, 2015 for the purpose of
8 leasing for a defined period of longer than one year shall not
9 be reduced by the value of or credit given for traded-in
10 tangible personal property owned by the lessor, nor shall it be
11 reduced by the value of or credit given for traded-in tangible
12 personal property owned by the lessee, regardless of whether
13 the trade-in value thereof is assigned by the lessee to the
14 lessor. In the case of a motor vehicle that is sold for the
15 purpose of leasing for a defined period of longer than one
16 year, the sale occurs at the time of the delivery of the
17 vehicle, regardless of the due date of any lease payments. A
18 lessor who incurs a Retailers' Occupation Tax liability on the
19 sale of a motor vehicle coming off lease may not take a credit
20 against that liability for the Use Tax the lessor paid upon the
21 purchase of the motor vehicle (or for any tax the lessor paid
22 with respect to any amount received by the lessor from the
23 lessee for the leased vehicle that was not calculated at the
24 time the lease was executed) if the selling price of the motor
25 vehicle at the time of purchase was calculated using the
26 definition of "selling price" as defined in this paragraph.

1 Notwithstanding any other provision of this Act to the
2 contrary, lessors shall file all returns and make all payments
3 required under this paragraph to the Department by electronic
4 means in the manner and form as required by the Department.
5 This paragraph does not apply to leases of motor vehicles for
6 which, at the time the lease is entered into, the term of the
7 lease is not a defined period, including leases with a defined
8 initial period with the option to continue the lease on a
9 month-to-month or other basis beyond the initial defined
10 period.

11 The phrase "like kind and character" shall be liberally
12 construed (including but not limited to any form of motor
13 vehicle for any form of motor vehicle, or any kind of farm or
14 agricultural implement for any other kind of farm or
15 agricultural implement), while not including a kind of item
16 which, if sold at retail by that retailer, would be exempt from
17 retailers' occupation tax and use tax as an isolated or
18 occasional sale.

19 "Department" means the Department of Revenue.

20 "Person" means any natural individual, firm, partnership,
21 association, joint stock company, joint adventure, public or
22 private corporation, limited liability company, or a receiver,
23 executor, trustee, guardian or other representative appointed
24 by order of any court.

25 "Retailer" means and includes every person engaged in the
26 business of making sales at retail as defined in this Section.

1 A person who holds himself or herself out as being engaged
2 (or who habitually engages) in selling tangible personal
3 property at retail is a retailer hereunder with respect to such
4 sales (and not primarily in a service occupation)
5 notwithstanding the fact that such person designs and produces
6 such tangible personal property on special order for the
7 purchaser and in such a way as to render the property of value
8 only to such purchaser, if such tangible personal property so
9 produced on special order serves substantially the same
10 function as stock or standard items of tangible personal
11 property that are sold at retail.

12 A person whose activities are organized and conducted
13 primarily as a not-for-profit service enterprise, and who
14 engages in selling tangible personal property at retail
15 (whether to the public or merely to members and their guests)
16 is a retailer with respect to such transactions, excepting only
17 a person organized and operated exclusively for charitable,
18 religious or educational purposes either (1), to the extent of
19 sales by such person to its members, students, patients or
20 inmates of tangible personal property to be used primarily for
21 the purposes of such person, or (2), to the extent of sales by
22 such person of tangible personal property which is not sold or
23 offered for sale by persons organized for profit. The selling
24 of school books and school supplies by schools at retail to
25 students is not "primarily for the purposes of" the school
26 which does such selling. This paragraph does not apply to nor

1 subject to taxation occasional dinners, social or similar
2 activities of a person organized and operated exclusively for
3 charitable, religious or educational purposes, whether or not
4 such activities are open to the public.

5 A person who is the recipient of a grant or contract under
6 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
7 serves meals to participants in the federal Nutrition Program
8 for the Elderly in return for contributions established in
9 amount by the individual participant pursuant to a schedule of
10 suggested fees as provided for in the federal Act is not a
11 retailer under this Act with respect to such transactions.

12 Persons who engage in the business of transferring tangible
13 personal property upon the redemption of trading stamps are
14 retailers hereunder when engaged in such business.

15 The isolated or occasional sale of tangible personal
16 property at retail by a person who does not hold himself out as
17 being engaged (or who does not habitually engage) in selling
18 such tangible personal property at retail or a sale through a
19 bulk vending machine does not make such person a retailer
20 hereunder. However, any person who is engaged in a business
21 which is not subject to the tax imposed by the "Retailers'
22 Occupation Tax Act" because of involving the sale of or a
23 contract to sell real estate or a construction contract to
24 improve real estate, but who, in the course of conducting such
25 business, transfers tangible personal property to users or
26 consumers in the finished form in which it was purchased, and

1 which does not become real estate, under any provision of a
2 construction contract or real estate sale or real estate sales
3 agreement entered into with some other person arising out of or
4 because of such nontaxable business, is a retailer to the
5 extent of the value of the tangible personal property so
6 transferred. If, in such transaction, a separate charge is made
7 for the tangible personal property so transferred, the value of
8 such property, for the purposes of this Act, is the amount so
9 separately charged, but not less than the cost of such property
10 to the transferor; if no separate charge is made, the value of
11 such property, for the purposes of this Act, is the cost to the
12 transferor of such tangible personal property.

13 "Retailer maintaining a place of business in this State",
14 or any like term, means and includes any of the following
15 retailers:

16 (1) A retailer having or maintaining within this State,
17 directly or by a subsidiary, an office, distribution house,
18 sales house, warehouse or other place of business, or any
19 agent or other representative operating within this State
20 under the authority of the retailer or its subsidiary,
21 irrespective of whether such place of business or agent or
22 other representative is located here permanently or
23 temporarily, or whether such retailer or subsidiary is
24 licensed to do business in this State. However, the
25 ownership of property that is located at the premises of a
26 printer with which the retailer has contracted for printing

1 and that consists of the final printed product, property
2 that becomes a part of the final printed product, or copy
3 from which the printed product is produced shall not result
4 in the retailer being deemed to have or maintain an office,
5 distribution house, sales house, warehouse, or other place
6 of business within this State.

7 (1.1) A retailer having a contract with a person
8 located in this State under which the person, for a
9 commission or other consideration based upon the sale of
10 tangible personal property by the retailer, directly or
11 indirectly refers potential customers to the retailer by
12 providing to the potential customers a promotional code or
13 other mechanism that allows the retailer to track purchases
14 referred by such persons. Examples of mechanisms that allow
15 the retailer to track purchases referred by such persons
16 include but are not limited to the use of a link on the
17 person's Internet website, promotional codes distributed
18 through the person's hand-delivered or mailed material,
19 and promotional codes distributed by the person through
20 radio or other broadcast media. The provisions of this
21 paragraph (1.1) shall apply only if the cumulative gross
22 receipts from sales of tangible personal property by the
23 retailer to customers who are referred to the retailer by
24 all persons in this State under such contracts exceed
25 \$10,000 during the preceding 4 quarterly periods ending on
26 the last day of March, June, September, and December. A

1 retailer meeting the requirements of this paragraph (1.1)
2 shall be presumed to be maintaining a place of business in
3 this State but may rebut this presumption by submitting
4 proof that the referrals or other activities pursued within
5 this State by such persons were not sufficient to meet the
6 nexus standards of the United States Constitution during
7 the preceding 4 quarterly periods.

8 (1.2) Beginning July 1, 2011, a retailer having a
9 contract with a person located in this State under which:

10 (A) the retailer sells the same or substantially
11 similar line of products as the person located in this
12 State and does so using an identical or substantially
13 similar name, trade name, or trademark as the person
14 located in this State; and

15 (B) the retailer provides a commission or other
16 consideration to the person located in this State based
17 upon the sale of tangible personal property by the
18 retailer.

19 The provisions of this paragraph (1.2) shall apply only if
20 the cumulative gross receipts from sales of tangible
21 personal property by the retailer to customers in this
22 State under all such contracts exceed \$10,000 during the
23 preceding 4 quarterly periods ending on the last day of
24 March, June, September, and December.

25 (2) A retailer soliciting orders for tangible personal
26 property by means of a telecommunication or television

1 shopping system (which utilizes toll free numbers) which is
2 intended by the retailer to be broadcast by cable
3 television or other means of broadcasting, to consumers
4 located in this State.

5 (3) A retailer, pursuant to a contract with a
6 broadcaster or publisher located in this State, soliciting
7 orders for tangible personal property by means of
8 advertising which is disseminated primarily to consumers
9 located in this State and only secondarily to bordering
10 jurisdictions.

11 (4) A retailer soliciting orders for tangible personal
12 property by mail if the solicitations are substantial and
13 recurring and if the retailer benefits from any banking,
14 financing, debt collection, telecommunication, or
15 marketing activities occurring in this State or benefits
16 from the location in this State of authorized installation,
17 servicing, or repair facilities.

18 (5) A retailer that is owned or controlled by the same
19 interests that own or control any retailer engaging in
20 business in the same or similar line of business in this
21 State.

22 (6) A retailer having a franchisee or licensee
23 operating under its trade name if the franchisee or
24 licensee is required to collect the tax under this Section.

25 (7) A retailer, pursuant to a contract with a cable
26 television operator located in this State, soliciting

1 orders for tangible personal property by means of
2 advertising which is transmitted or distributed over a
3 cable television system in this State.

4 (8) A retailer engaging in activities in Illinois,
5 which activities in the state in which the retail business
6 engaging in such activities is located would constitute
7 maintaining a place of business in that state.

8 (9) Beginning October 1, 2018, a retailer making sales
9 of tangible personal property to purchasers in Illinois
10 from outside of Illinois if:

11 (A) the cumulative gross receipts from sales of
12 tangible personal property to purchasers in Illinois
13 are \$100,000 or more; or

14 (B) the retailer enters into 200 or more separate
15 transactions for the sale of tangible personal
16 property to purchasers in Illinois.

17 The retailer shall determine on a quarterly basis,
18 ending on the last day of March, June, September, and
19 December, whether he or she meets the criteria of either
20 subparagraph (A) or (B) of this paragraph (9) for the
21 preceding 12-month period. If the retailer meets the
22 criteria of either subparagraph (A) or (B) for a 12-month
23 period, he or she is considered a retailer maintaining a
24 place of business in this State and is required to collect
25 and remit the tax imposed under this Act and file returns
26 for one year. At the end of that one-year period, the

1 retailer shall determine whether the retailer met the
2 criteria of either subparagraph (A) or (B) during the
3 preceding 12-month period. If the retailer met the criteria
4 in either subparagraph (A) or (B) for the preceding
5 12-month period, he or she is considered a retailer
6 maintaining a place of business in this State and is
7 required to collect and remit the tax imposed under this
8 Act and file returns for the subsequent year. If at the end
9 of a one-year period a retailer that was required to
10 collect and remit the tax imposed under this Act determines
11 that he or she did not meet the criteria in either
12 subparagraph (A) or (B) during the preceding 12-month
13 period, the retailer shall subsequently determine on a
14 quarterly basis, ending on the last day of March, June,
15 September, and December, whether he or she meets the
16 criteria of either subparagraph (A) or (B) for the
17 preceding 12-month period.

18 Beginning January 1, 2020, neither the gross receipts
19 from nor the number of separate transactions for sales of
20 tangible personal property to purchasers in Illinois that a
21 retailer makes through a marketplace facilitator and for
22 which the retailer has received a certification from the
23 marketplace facilitator pursuant to Section 2d of this Act
24 shall be included for purposes of determining whether he or
25 she has met the thresholds of this paragraph (9).

26 (10) Beginning January 1, 2020, a marketplace

1 facilitator, as defined in Section 2d of this Act.

2 "Bulk vending machine" means a vending machine, containing
3 unsorted confections, nuts, toys, or other items designed
4 primarily to be used or played with by children which, when a
5 coin or coins of a denomination not larger than \$0.50 are
6 inserted, are dispensed in equal portions, at random and
7 without selection by the customer.

8 (Source: P.A. 99-78, eff. 7-20-15; 100-587, eff. 6-4-18.)

9 (35 ILCS 105/2d new)

10 Sec. 2d. Marketplace facilitators and marketplace sellers.

11 (a) As used in this Section:

12 "Affiliate" means a person that, with respect to another
13 person: (i) has a direct or indirect ownership interest of more
14 than 5 percent in the other person; or (ii) is related to the
15 other person because a third person, or a group of third
16 persons who are affiliated with each other as defined in this
17 subsection, holds a direct or indirect ownership interest of
18 more than 5% in the related person.

19 "Marketplace" means a physical or electronic place, forum,
20 platform, application, or other method by which a marketplace
21 seller sells or offers to sell items.

22 "Marketplace facilitator" means a person who, pursuant to
23 an agreement with a marketplace seller, facilitates sales of
24 tangible personal property by that marketplace seller. A person
25 facilitates a sale of tangible personal property by, directly

1 or indirectly through one or more affiliates, doing both of the
2 following: (i) listing or otherwise making available for sale
3 the tangible personal property of the marketplace seller
4 through a marketplace owned or operated by the marketplace
5 facilitator; and (ii) processing sales or payments for
6 marketplace sellers.

7 "Marketplace seller" means a person that sells or offers to
8 sell tangible personal property through a marketplace.

9 (b) Beginning on January 1, 2020, a marketplace facilitator
10 who meets either of the following criteria is considered the
11 retailer of each sale of tangible personal property made on the
12 marketplace:

13 (1) the cumulative gross receipts from sales of
14 tangible personal property to purchasers in Illinois by the
15 marketplace facilitator and by marketplace sellers are
16 \$100,000 or more; or

17 (2) the marketplace facilitator and marketplace
18 sellers cumulatively enter into 200 or more separate
19 transactions for the sale of tangible personal property to
20 purchasers in Illinois.

21 A marketplace facilitator shall determine on a quarterly
22 basis, ending on the last day of March, June, September, and
23 December, whether he or she meets the criteria of either
24 paragraph (1) or (2) of this subsection (b) for the preceding
25 12-month period. If the marketplace facilitator meets the
26 criteria of either paragraph (1) or (2) for a 12-month period,

1 he or she is considered a retailer maintaining a place of
2 business in this State and is required to collect and remit the
3 tax imposed under this Act and file returns for one year. At
4 the end of that one-year period, the marketplace facilitator
5 shall determine whether the marketplace facilitator met the
6 criteria of either paragraph (1) or (2) during the preceding
7 12-month period. If the marketplace facilitator met the
8 criteria in either paragraph (1) or (2) for the preceding
9 12-month period, he or she is considered a retailer maintaining
10 a place of business in this State and is required to collect
11 and remit the tax imposed under this Act and file returns for
12 the subsequent year. If at the end of a one-year period a
13 marketplace facilitator that was required to collect and remit
14 the tax imposed under this Act determines that he or she did
15 not meet the criteria in either paragraph (1) or (2) during the
16 preceding 12-month period, the marketplace facilitator shall
17 subsequently determine on a quarterly basis, ending on the last
18 day of March, June, September, and December, whether he or she
19 meets the criteria of either paragraph (1) or (2) for the
20 preceding 12-month period.

21 (c) A marketplace facilitator that meets either of the
22 thresholds in subsection (b) of this Section is considered the
23 retailer of each sale made through its marketplace and is
24 liable for collecting and remitting the tax under this Act on
25 all such sales. The marketplace facilitator has all the rights
26 and duties, and is required to comply with the same

1 requirements and procedures, as all other retailers
2 maintaining a place of business in this State who are
3 registered or who are required to be registered to collect and
4 remit the tax imposed by this Act.

5 (d) A marketplace facilitator shall:

6 (1) certify to each marketplace seller that the
7 marketplace facilitator assumes the rights and duties of a
8 retailer under this Act with respect to sales made by the
9 marketplace seller through the marketplace; and

10 (2) collect taxes imposed by this Act as required by
11 Section 3-45 of this Act for sales made through the
12 marketplace.

13 (e) A marketplace seller shall retain books and records for
14 all sales made through a marketplace in accordance with the
15 requirements of Section 11.

16 (f) A marketplace seller shall furnish to the marketplace
17 facilitator information that is necessary for the marketplace
18 facilitator to correctly collect and remit taxes for a retail
19 sale. The information may include a certification that an item
20 being sold is taxable, not taxable, exempt from taxation, or
21 taxable at a specified rate. A marketplace seller shall be held
22 harmless for liability for the tax imposed under this Act when
23 a marketplace facilitator fails to correctly collect and remit
24 tax after having been provided with information by a
25 marketplace seller to correctly collect and remit taxes imposed
26 under this Act.

1 (g) Except as provided in subsection (h), if the
2 marketplace facilitator demonstrates to the satisfaction of
3 the Department that its failure to correctly collect and remit
4 tax on a retail sale resulted from the marketplace
5 facilitator's good faith reliance on incorrect or insufficient
6 information provided by a marketplace seller, it shall be
7 relieved of liability for the tax on that retail sale. In this
8 case, a marketplace seller is liable for any resulting tax due.

9 (h) A marketplace facilitator and marketplace seller that
10 are affiliates, as defined by subsection (a), are jointly and
11 severally liable for tax liability resulting from a sale made
12 by the affiliated marketplace seller through the marketplace.

13 (i) This Section does not affect the tax liability of a
14 purchaser under this Act.

15 (j) The Department may adopt rules for the administration
16 and enforcement of the provisions of this Section.

17 Section 10-15. The Service Use Tax Act is amended by
18 changing Section 2 and by adding Section 2d as follows:

19 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

20 Sec. 2. Definitions. In this Act:

21 "Use" means the exercise by any person of any right or
22 power over tangible personal property incident to the ownership
23 of that property, but does not include the sale or use for
24 demonstration by him of that property in any form as tangible

1 personal property in the regular course of business. "Use" does
2 not mean the interim use of tangible personal property nor the
3 physical incorporation of tangible personal property, as an
4 ingredient or constituent, into other tangible personal
5 property, (a) which is sold in the regular course of business
6 or (b) which the person incorporating such ingredient or
7 constituent therein has undertaken at the time of such purchase
8 to cause to be transported in interstate commerce to
9 destinations outside the State of Illinois.

10 "Purchased from a serviceman" means the acquisition of the
11 ownership of, or title to, tangible personal property through a
12 sale of service.

13 "Purchaser" means any person who, through a sale of
14 service, acquires the ownership of, or title to, any tangible
15 personal property.

16 "Cost price" means the consideration paid by the serviceman
17 for a purchase valued in money, whether paid in money or
18 otherwise, including cash, credits and services, and shall be
19 determined without any deduction on account of the supplier's
20 cost of the property sold or on account of any other expense
21 incurred by the supplier. When a serviceman contracts out part
22 or all of the services required in his sale of service, it
23 shall be presumed that the cost price to the serviceman of the
24 property transferred to him or her by his or her subcontractor
25 is equal to 50% of the subcontractor's charges to the
26 serviceman in the absence of proof of the consideration paid by

1 the subcontractor for the purchase of such property.

2 "Selling price" means the consideration for a sale valued
3 in money whether received in money or otherwise, including
4 cash, credits and service, and shall be determined without any
5 deduction on account of the serviceman's cost of the property
6 sold, the cost of materials used, labor or service cost or any
7 other expense whatsoever, but does not include interest or
8 finance charges which appear as separate items on the bill of
9 sale or sales contract nor charges that are added to prices by
10 sellers on account of the seller's duty to collect, from the
11 purchaser, the tax that is imposed by this Act.

12 "Department" means the Department of Revenue.

13 "Person" means any natural individual, firm, partnership,
14 association, joint stock company, joint venture, public or
15 private corporation, limited liability company, and any
16 receiver, executor, trustee, guardian or other representative
17 appointed by order of any court.

18 "Sale of service" means any transaction except:

19 (1) a retail sale of tangible personal property taxable
20 under the Retailers' Occupation Tax Act or under the Use
21 Tax Act.

22 (2) a sale of tangible personal property for the
23 purpose of resale made in compliance with Section 2c of the
24 Retailers' Occupation Tax Act.

25 (3) except as hereinafter provided, a sale or transfer
26 of tangible personal property as an incident to the

1 rendering of service for or by any governmental body, or
2 for or by any corporation, society, association,
3 foundation or institution organized and operated
4 exclusively for charitable, religious or educational
5 purposes or any not-for-profit corporation, society,
6 association, foundation, institution or organization which
7 has no compensated officers or employees and which is
8 organized and operated primarily for the recreation of
9 persons 55 years of age or older. A limited liability
10 company may qualify for the exemption under this paragraph
11 only if the limited liability company is organized and
12 operated exclusively for educational purposes.

13 (4) (blank).

14 (4a) a sale or transfer of tangible personal property
15 as an incident to the rendering of service for owners,
16 lessors, or shippers of tangible personal property which is
17 utilized by interstate carriers for hire for use as rolling
18 stock moving in interstate commerce so long as so used by
19 interstate carriers for hire, and equipment operated by a
20 telecommunications provider, licensed as a common carrier
21 by the Federal Communications Commission, which is
22 permanently installed in or affixed to aircraft moving in
23 interstate commerce.

24 (4a-5) on and after July 1, 2003 and through June 30,
25 2004, a sale or transfer of a motor vehicle of the second
26 division with a gross vehicle weight in excess of 8,000

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

19 (5) a sale or transfer of machinery and equipment used
20 primarily in the process of the manufacturing or
21 assembling, either in an existing, an expanded or a new
22 manufacturing facility, of tangible personal property for
23 wholesale or retail sale or lease, whether such sale or
24 lease is made directly by the manufacturer or by some other
25 person, whether the materials used in the process are owned
26 by the manufacturer or some other person, or whether such

1 sale or lease is made apart from or as an incident to the
2 seller's engaging in a service occupation and the
3 applicable tax is a Service Use Tax or Service Occupation
4 Tax, rather than Use Tax or Retailers' Occupation Tax. The
5 exemption provided by this paragraph (5) does not include
6 machinery and equipment used in (i) the generation of
7 electricity for wholesale or retail sale; (ii) the
8 generation or treatment of natural or artificial gas for
9 wholesale or retail sale that is delivered to customers
10 through pipes, pipelines, or mains; or (iii) the treatment
11 of water for wholesale or retail sale that is delivered to
12 customers through pipes, pipelines, or mains. The
13 provisions of Public Act 98-583 are declaratory of existing
14 law as to the meaning and scope of this exemption. The
15 exemption under this paragraph (5) is exempt from the
16 provisions of Section 3-75.

17 (5a) the repairing, reconditioning or remodeling, for
18 a common carrier by rail, of tangible personal property
19 which belongs to such carrier for hire, and as to which
20 such carrier receives the physical possession of the
21 repaired, reconditioned or remodeled item of tangible
22 personal property in Illinois, and which such carrier
23 transports, or shares with another common carrier in the
24 transportation of such property, out of Illinois on a
25 standard uniform bill of lading showing the person who
26 repaired, reconditioned or remodeled the property to a

1 destination outside Illinois, for use outside Illinois.

2 (5b) a sale or transfer of tangible personal property
3 which is produced by the seller thereof on special order in
4 such a way as to have made the applicable tax the Service
5 Occupation Tax or the Service Use Tax, rather than the
6 Retailers' Occupation Tax or the Use Tax, for an interstate
7 carrier by rail which receives the physical possession of
8 such property in Illinois, and which transports such
9 property, or shares with another common carrier in the
10 transportation of such property, out of Illinois on a
11 standard uniform bill of lading showing the seller of the
12 property as the shipper or consignor of such property to a
13 destination outside Illinois, for use outside Illinois.

14 (6) until July 1, 2003, a sale or transfer of
15 distillation machinery and equipment, sold as a unit or kit
16 and assembled or installed by the retailer, which machinery
17 and equipment is certified by the user to be used only for
18 the production of ethyl alcohol that will be used for
19 consumption as motor fuel or as a component of motor fuel
20 for the personal use of such user and not subject to sale
21 or resale.

22 (7) at the election of any serviceman not required to
23 be otherwise registered as a retailer under Section 2a of
24 the Retailers' Occupation Tax Act, made for each fiscal
25 year sales of service in which the aggregate annual cost
26 price of tangible personal property transferred as an

1 incident to the sales of service is less than 35%, or 75%
2 in the case of servicemen transferring prescription drugs
3 or servicemen engaged in graphic arts production, of the
4 aggregate annual total gross receipts from all sales of
5 service. The purchase of such tangible personal property by
6 the serviceman shall be subject to tax under the Retailers'
7 Occupation Tax Act and the Use Tax Act. However, if a
8 primary serviceman who has made the election described in
9 this paragraph subcontracts service work to a secondary
10 serviceman who has also made the election described in this
11 paragraph, the primary serviceman does not incur a Use Tax
12 liability if the secondary serviceman (i) has paid or will
13 pay Use Tax on his or her cost price of any tangible
14 personal property transferred to the primary serviceman
15 and (ii) certifies that fact in writing to the primary
16 serviceman.

17 Tangible personal property transferred incident to the
18 completion of a maintenance agreement is exempt from the tax
19 imposed pursuant to this Act.

20 Exemption (5) also includes machinery and equipment used in
21 the general maintenance or repair of such exempt machinery and
22 equipment or for in-house manufacture of exempt machinery and
23 equipment. On and after July 1, 2017, exemption (5) also
24 includes graphic arts machinery and equipment, as defined in
25 paragraph (5) of Section 3-5. The machinery and equipment
26 exemption does not include machinery and equipment used in (i)

1 the generation of electricity for wholesale or retail sale;
2 (ii) the generation or treatment of natural or artificial gas
3 for wholesale or retail sale that is delivered to customers
4 through pipes, pipelines, or mains; or (iii) the treatment of
5 water for wholesale or retail sale that is delivered to
6 customers through pipes, pipelines, or mains. The provisions of
7 Public Act 98-583 are declaratory of existing law as to the
8 meaning and scope of this exemption. For the purposes of
9 exemption (5), each of these terms shall have the following
10 meanings: (1) "manufacturing process" shall mean the
11 production of any article of tangible personal property,
12 whether such article is a finished product or an article for
13 use in the process of manufacturing or assembling a different
14 article of tangible personal property, by procedures commonly
15 regarded as manufacturing, processing, fabricating, or
16 refining which changes some existing material or materials into
17 a material with a different form, use or name. In relation to a
18 recognized integrated business composed of a series of
19 operations which collectively constitute manufacturing, or
20 individually constitute manufacturing operations, the
21 manufacturing process shall be deemed to commence with the
22 first operation or stage of production in the series, and shall
23 not be deemed to end until the completion of the final product
24 in the last operation or stage of production in the series; and
25 further, for purposes of exemption (5), photoprocessing is
26 deemed to be a manufacturing process of tangible personal

1 property for wholesale or retail sale; (2) "assembling process"
2 shall mean the production of any article of tangible personal
3 property, whether such article is a finished product or an
4 article for use in the process of manufacturing or assembling a
5 different article of tangible personal property, by the
6 combination of existing materials in a manner commonly regarded
7 as assembling which results in a material of a different form,
8 use or name; (3) "machinery" shall mean major mechanical
9 machines or major components of such machines contributing to a
10 manufacturing or assembling process; and (4) "equipment" shall
11 include any independent device or tool separate from any
12 machinery but essential to an integrated manufacturing or
13 assembly process; including computers used primarily in a
14 manufacturer's computer assisted design, computer assisted
15 manufacturing (CAD/CAM) system; or any subunit or assembly
16 comprising a component of any machinery or auxiliary, adjunct
17 or attachment parts of machinery, such as tools, dies, jigs,
18 fixtures, patterns and molds; or any parts which require
19 periodic replacement in the course of normal operation; but
20 shall not include hand tools. Equipment includes chemicals or
21 chemicals acting as catalysts but only if the chemicals or
22 chemicals acting as catalysts effect a direct and immediate
23 change upon a product being manufactured or assembled for
24 wholesale or retail sale or lease. The purchaser of such
25 machinery and equipment who has an active resale registration
26 number shall furnish such number to the seller at the time of

1 purchase. The user of such machinery and equipment and tools
2 without an active resale registration number shall prepare a
3 certificate of exemption for each transaction stating facts
4 establishing the exemption for that transaction, which
5 certificate shall be available to the Department for inspection
6 or audit. The Department shall prescribe the form of the
7 certificate.

8 Any informal rulings, opinions or letters issued by the
9 Department in response to an inquiry or request for any opinion
10 from any person regarding the coverage and applicability of
11 exemption (5) to specific devices shall be published,
12 maintained as a public record, and made available for public
13 inspection and copying. If the informal ruling, opinion or
14 letter contains trade secrets or other confidential
15 information, where possible the Department shall delete such
16 information prior to publication. Whenever such informal
17 rulings, opinions, or letters contain any policy of general
18 applicability, the Department shall formulate and adopt such
19 policy as a rule in accordance with the provisions of the
20 Illinois Administrative Procedure Act.

21 On and after July 1, 1987, no entity otherwise eligible
22 under exemption (3) of this Section shall make tax-free
23 purchases unless it has an active exemption identification
24 number issued by the Department.

25 The purchase, employment and transfer of such tangible
26 personal property as newsprint and ink for the primary purpose

1 of conveying news (with or without other information) is not a
2 purchase, use or sale of service or of tangible personal
3 property within the meaning of this Act.

4 "Serviceman" means any person who is engaged in the
5 occupation of making sales of service.

6 "Sale at retail" means "sale at retail" as defined in the
7 Retailers' Occupation Tax Act.

8 "Supplier" means any person who makes sales of tangible
9 personal property to servicemen for the purpose of resale as an
10 incident to a sale of service.

11 "Serviceman maintaining a place of business in this State",
12 or any like term, means and includes any serviceman:

13 (1) having or maintaining within this State, directly
14 or by a subsidiary, an office, distribution house, sales
15 house, warehouse or other place of business, or any agent
16 or other representative operating within this State under
17 the authority of the serviceman or its subsidiary,
18 irrespective of whether such place of business or agent or
19 other representative is located here permanently or
20 temporarily, or whether such serviceman or subsidiary is
21 licensed to do business in this State;

22 (1.1) having a contract with a person located in this
23 State under which the person, for a commission or other
24 consideration based on the sale of service by the
25 serviceman, directly or indirectly refers potential
26 customers to the serviceman by providing to the potential

1 customers a promotional code or other mechanism that allows
2 the serviceman to track purchases referred by such persons.
3 Examples of mechanisms that allow the serviceman to track
4 purchases referred by such persons include but are not
5 limited to the use of a link on the person's Internet
6 website, promotional codes distributed through the
7 person's hand-delivered or mailed material, and
8 promotional codes distributed by the person through radio
9 or other broadcast media. The provisions of this paragraph
10 (1.1) shall apply only if the cumulative gross receipts
11 from sales of service by the serviceman to customers who
12 are referred to the serviceman by all persons in this State
13 under such contracts exceed \$10,000 during the preceding 4
14 quarterly periods ending on the last day of March, June,
15 September, and December; a serviceman meeting the
16 requirements of this paragraph (1.1) shall be presumed to
17 be maintaining a place of business in this State but may
18 rebut this presumption by submitting proof that the
19 referrals or other activities pursued within this State by
20 such persons were not sufficient to meet the nexus
21 standards of the United States Constitution during the
22 preceding 4 quarterly periods;

23 (1.2) beginning July 1, 2011, having a contract with a
24 person located in this State under which:

25 (A) the serviceman sells the same or substantially
26 similar line of services as the person located in this

1 State and does so using an identical or substantially
2 similar name, trade name, or trademark as the person
3 located in this State; and

4 (B) the serviceman provides a commission or other
5 consideration to the person located in this State based
6 upon the sale of services by the serviceman.

7 The provisions of this paragraph (1.2) shall apply only if
8 the cumulative gross receipts from sales of service by the
9 serviceman to customers in this State under all such
10 contracts exceed \$10,000 during the preceding 4 quarterly
11 periods ending on the last day of March, June, September,
12 and December;

13 (2) soliciting orders for tangible personal property
14 by means of a telecommunication or television shopping
15 system (which utilizes toll free numbers) which is intended
16 by the retailer to be broadcast by cable television or
17 other means of broadcasting, to consumers located in this
18 State;

19 (3) pursuant to a contract with a broadcaster or
20 publisher located in this State, soliciting orders for
21 tangible personal property by means of advertising which is
22 disseminated primarily to consumers located in this State
23 and only secondarily to bordering jurisdictions;

24 (4) soliciting orders for tangible personal property
25 by mail if the solicitations are substantial and recurring
26 and if the retailer benefits from any banking, financing,

1 debt collection, telecommunication, or marketing
2 activities occurring in this State or benefits from the
3 location in this State of authorized installation,
4 servicing, or repair facilities;

5 (5) being owned or controlled by the same interests
6 which own or control any retailer engaging in business in
7 the same or similar line of business in this State;

8 (6) having a franchisee or licensee operating under its
9 trade name if the franchisee or licensee is required to
10 collect the tax under this Section;

11 (7) pursuant to a contract with a cable television
12 operator located in this State, soliciting orders for
13 tangible personal property by means of advertising which is
14 transmitted or distributed over a cable television system
15 in this State;

16 (8) engaging in activities in Illinois, which
17 activities in the state in which the supply business
18 engaging in such activities is located would constitute
19 maintaining a place of business in that state; or

20 (9) beginning October 1, 2018, making sales of service
21 to purchasers in Illinois from outside of Illinois if:

22 (A) the cumulative gross receipts from sales of
23 service to purchasers in Illinois are \$100,000 or more;
24 or

25 (B) the serviceman enters into 200 or more separate
26 transactions for sales of service to purchasers in

1 Illinois.

2 The serviceman shall determine on a quarterly basis,
3 ending on the last day of March, June, September, and
4 December, whether he or she meets the criteria of either
5 subparagraph (A) or (B) of this paragraph (9) for the
6 preceding 12-month period. If the serviceman meets the
7 criteria of either subparagraph (A) or (B) for a 12-month
8 period, he or she is considered a serviceman maintaining a
9 place of business in this State and is required to collect
10 and remit the tax imposed under this Act and file returns
11 for one year. At the end of that one-year period, the
12 serviceman shall determine whether the serviceman met the
13 criteria of either subparagraph (A) or (B) during the
14 preceding 12-month period. If the serviceman met the
15 criteria in either subparagraph (A) or (B) for the
16 preceding 12-month period, he or she is considered a
17 serviceman maintaining a place of business in this State
18 and is required to collect and remit the tax imposed under
19 this Act and file returns for the subsequent year. If at
20 the end of a one-year period a serviceman that was required
21 to collect and remit the tax imposed under this Act
22 determines that he or she did not meet the criteria in
23 either subparagraph (A) or (B) during the preceding
24 12-month period, the serviceman subsequently shall
25 determine on a quarterly basis, ending on the last day of
26 March, June, September, and December, whether he or she

1 meets the criteria of either subparagraph (A) or (B) for
2 the preceding 12-month period.

3 Beginning January 1, 2020, neither the gross receipts
4 from nor the number of separate transactions for sales of
5 service to purchasers in Illinois that a serviceman makes
6 through a marketplace facilitator and for which the
7 serviceman has received a certification from the
8 marketplace facilitator pursuant to Section 2d of this Act
9 shall be included for purposes of determining whether he or
10 she has met the thresholds of this paragraph (9).

11 (10) Beginning January 1, 2020, a marketplace
12 facilitator, as defined in Section 2d of this Act.

13 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
14 100-587, eff. 6-4-18; 100-863, eff. 8-14-18.)

15 (35 ILCS 110/2d new)

16 Sec. 2d. Marketplace facilitators and marketplace
17 servicemen.

18 (a) Definitions. For purposes of this Section:

19 "Affiliate" means a person that, with respect to another
20 person: (i) has a direct or indirect ownership interest of more
21 than 5% in the other person; or (ii) is related to the other
22 person because a third person, or group of third persons who
23 are affiliated with each other as defined in this subsection,
24 holds a direct or indirect ownership interest of more than 5%
25 in the related person.

1 "Marketplace" means a physical or electronic place, forum,
2 platform, application or other method by which a marketplace
3 serviceman makes or offers to make sales of service.

4 "Marketplace facilitator" means a person who, pursuant to
5 an agreement with a marketplace serviceman, facilitates sales
6 of service by that marketplace serviceman. A person facilitates
7 a sale of service by, directly or indirectly through one or
8 more affiliates, doing both of the following: (i) listing or
9 otherwise making available a sale of service of the marketplace
10 serviceman through a marketplace owned or operated by the
11 marketplace facilitator; and (ii) processing sales of service
12 for, or payments for sales of service by, marketplace
13 servicemen.

14 "Marketplace serviceman" means a person that makes or
15 offers to make a sale of service through a marketplace.

16 (b) Beginning January 1, 2020, a marketplace facilitator
17 who meets either of the following criteria is considered the
18 serviceman for each sale of service made on the marketplace:

19 (1) the cumulative gross receipts from sales of service
20 to purchasers in Illinois by the marketplace facilitator
21 and by marketplace servicemen are \$100,000 or more; or

22 (2) the marketplace facilitator and marketplace
23 servicemen cumulatively enter into 200 or more separate
24 transactions for the sale of service to purchasers in
25 Illinois.

26 A marketplace facilitator shall determine on a quarterly

1 basis, ending on the last day of March, June, September, and
2 December, whether he or she meets the criteria of either
3 paragraph (1) or (2) of this subsection (b) for the preceding
4 12-month period. If the marketplace facilitator meets the
5 criteria of either paragraph (1) or (2) for a 12-month period,
6 he or she is considered a serviceman maintaining a place of
7 business in this State and is required to collect and remit the
8 tax imposed under this Act and file returns for one year. At
9 the end of that one-year period, the marketplace facilitator
10 shall determine whether the marketplace facilitator met the
11 criteria of either paragraph (1) or (2) during the preceding
12 12-month period. If the marketplace facilitator met the
13 criteria in either paragraph (1) or (2) for the preceding
14 12-month period, he or she is considered a serviceman
15 maintaining a place of business in this State and is required
16 to collect and remit the tax imposed under this Act and file
17 returns for the subsequent year. If, at the end of a one-year
18 period, a marketplace facilitator that was required to collect
19 and remit the tax imposed under this Act determines that he or
20 she did not meet the criteria in either paragraph (1) or (2)
21 during the preceding 12-month period, the marketplace
22 facilitator shall subsequently determine on a quarterly basis,
23 ending on the last day of March, June, September, and December,
24 whether he or she meets the criteria of either paragraph (1) or
25 (2) for the preceding 12-month period.

26 (c) A marketplace facilitator that meets either of the

1 thresholds in subsection (b) of this Section is considered the
2 serviceman for each sale of service made through its
3 marketplace and is liable for collecting and remitting the tax
4 under this Act on all such sales. The marketplace facilitator
5 has all the rights and duties, and is required to comply with
6 the same requirements and procedures, as all other servicemen
7 maintaining a place of business in this State who are
8 registered or who are required to be registered to collect and
9 remit the tax imposed by this Act.

10 (d) A marketplace facilitator shall:

11 (1) certify to each marketplace serviceman that the
12 marketplace facilitator assumes the rights and duties of a
13 serviceman under this Act with respect to sales of service
14 made by the marketplace serviceman through the
15 marketplace; and

16 (2) collect taxes imposed by this Act as required by
17 Section 3-40 of this Act for sales of service made through
18 the marketplace.

19 (e) A marketplace serviceman shall retain books and records
20 for all sales of service made through a marketplace in
21 accordance with the requirements of Section 11.

22 (f) A marketplace serviceman shall furnish to the
23 marketplace facilitator information that is necessary for the
24 marketplace facilitator to correctly collect and remit taxes
25 for a sale of service. The information may include a
26 certification that an item transferred incident to a sale of

1 service under this Act is taxable, not taxable, exempt from
2 taxation, or taxable at a specified rate. A marketplace
3 serviceman shall be held harmless for liability for the tax
4 imposed under this Act when a marketplace facilitator fails to
5 correctly collect and remit tax after having been provided with
6 information by a marketplace serviceman to correctly collect
7 and remit taxes imposed under this Act.

8 (g) Except as provided in subsection (h), if the
9 marketplace facilitator demonstrates to the satisfaction of
10 the Department that its failure to correctly collect and remit
11 tax on a sale of service resulted from the marketplace
12 facilitator's good faith reliance on incorrect or insufficient
13 information provided by a marketplace serviceman, it shall be
14 relieved of liability for the tax on that sale of service. In
15 this case, a marketplace serviceman is liable for any resulting
16 tax due.

17 (h) A marketplace facilitator and marketplace serviceman
18 that are affiliates, as defined by subsection (a), are jointly
19 and severally liable for tax liability resulting from a sale of
20 service made by the affiliated marketplace serviceman through
21 the marketplace.

22 (i) This Section does not affect the tax liability of a
23 purchaser under this Act.

24 (j) The Department may adopt rules for the administration
25 and enforcement of the provisions of this Section.

1 Section 10-35. The Tax Delinquency Amnesty Act is amended
2 by changing Section 10 as follows:

3 (35 ILCS 745/10)

4 Sec. 10. Amnesty program. The Department shall establish an
5 amnesty program for all taxpayers owing any tax imposed by
6 reason of or pursuant to authorization by any law of the State
7 of Illinois and collected by the Department.

8 The amnesty program shall be for a period from October 1,
9 2003 through November 15, 2003 and for a period beginning on
10 October 1, 2010 and ending November 8, 2010 and for a period
11 beginning on October 1, 2019 and ending on November 15, 2019.

12 The amnesty program shall provide that, upon payment by a
13 taxpayer of all taxes due from that taxpayer to the State of
14 Illinois for any taxable period ending (i) after June 30, 1983
15 and prior to July 1, 2002 for the tax amnesty period occurring
16 from October 1, 2003 through November 15, 2003, ~~and~~ (ii) after
17 June 30, 2002 and prior to July 1, 2009 for the tax amnesty
18 period beginning on October 1, 2010 through November 8, 2010,
19 and (iii) after June 30, 2011 and prior to July 1, 2018 for the
20 tax amnesty period beginning on October 1, 2019 through
21 November 15, 2019, the Department shall abate and not seek to
22 collect any interest or penalties that may be applicable and
23 the Department shall not seek civil or criminal prosecution for
24 any taxpayer for the period of time for which amnesty has been
25 granted to the taxpayer. Failure to pay all taxes due to the

1 State for a taxable period shall invalidate any amnesty granted
2 under this Act. Amnesty shall be granted only if all amnesty
3 conditions are satisfied by the taxpayer.

4 Amnesty shall not be granted to taxpayers who are a party
5 to any criminal investigation or to any civil or criminal
6 litigation that is pending in any circuit court or appellate
7 court or the Supreme Court of this State for nonpayment,
8 delinquency, or fraud in relation to any State tax imposed by
9 any law of the State of Illinois.

10 Participation in an amnesty program shall not preclude a
11 taxpayer from claiming a refund for an overpayment of tax on an
12 issue unrelated to the issues for which the taxpayer claimed
13 amnesty or for an overpayment of tax by taxpayers estimating a
14 non-final liability for the amnesty program pursuant to Section
15 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)).

16 Voluntary payments made under this Act shall be made by
17 cash, check, guaranteed remittance, or ACH debit.

18 The Department shall adopt rules as necessary to implement
19 the provisions of this Act.

20 Except as otherwise provided in this Section, all money
21 collected under this Act that would otherwise be deposited into
22 the General Revenue Fund shall be deposited as follows: (i)
23 one-half into the Common School Fund; (ii) one-half into the
24 General Revenue Fund. Two percent of all money collected under
25 this Act shall be deposited by the State Treasurer into the Tax
26 Compliance and Administration Fund and, subject to

1 appropriation, shall be used by the Department to cover costs
2 associated with the administration of this Act.

3 (Source: P.A. 96-1435, eff. 8-16-10.)

4 Section 10-40. The Health Maintenance Organization Act is
5 amended by changing Section 5-5 and by adding Section 5-10 as
6 follows:

7 (215 ILCS 125/5-5) (from Ch. 111 1/2, par. 1413)

8 Sec. 5-5. Suspension, revocation or denial of
9 certification of authority. The Director may suspend or revoke
10 any certificate of authority issued to a health maintenance
11 organization under this Act or deny an application for a
12 certificate of authority if he finds any of the following:

13 (a) The health maintenance organization is operating
14 significantly in contravention of its basic organizational
15 document, its health care plan, or in a manner contrary to that
16 described in any information submitted under Section 2-1 or
17 4-12.

18 (b) The health maintenance organization issues contracts
19 or evidences of coverage or uses a schedule of charges for
20 health care services that do not comply with the requirement of
21 Section 2-1 or 4-12.

22 (c) The health care plan does not provide or arrange for
23 basic health care services, except as provided in Section 4-13
24 concerning mental health services for clients of the Department

1 of Children and Family Services.

2 (d) The Director of Public Health certifies to the Director
3 that (1) the health maintenance organization does not meet the
4 requirements of Section 2-2 or (2) the health maintenance
5 organization is unable to fulfill its obligations to furnish
6 health care services as required under its health care plan.
7 The Department of Public Health shall promulgate by rule,
8 pursuant to the Illinois Administrative Procedure Act, the
9 precise standards used for determining what constitutes a
10 material misrepresentation, what constitutes a material
11 violation of a contract or evidence of coverage, or what
12 constitutes good faith with regard to certification under this
13 paragraph.

14 (e) The health maintenance organization is no longer
15 financially responsible and may reasonably be expected to be
16 unable to meet its obligations to enrollees or prospective
17 enrollees.

18 (f) The health maintenance organization, or any person on
19 its behalf, has advertised or merchandised its services in an
20 untrue, misrepresentative, misleading, deceptive, or unfair
21 manner.

22 (g) The continued operation of the health maintenance
23 organization would be hazardous to its enrollees.

24 (h) The health maintenance organization has neglected to
25 correct, within the time prescribed by subsection (c) of
26 Section 2-4, any deficiency occurring due to the organization's

1 prescribed minimum net worth or special contingent reserve
2 being impaired.

3 (i) The health maintenance organization has otherwise
4 failed to substantially comply with this Act.

5 (j) The health maintenance organization has failed to meet
6 the requirements for issuance of a certificate of authority set
7 forth in Section 2-2.

8 When the certificate of authority of a health maintenance
9 organization is revoked, the organization shall proceed,
10 immediately following the effective date of the order of
11 revocation, to wind up its affairs and shall conduct no further
12 business except as may be essential to the orderly conclusion
13 of the affairs of the organization. The Director may permit
14 further operation of the organization that he finds to be in
15 the best interest of enrollees to the end that the enrollees
16 will be afforded the greatest practical opportunity to obtain
17 health care services.

18 (k) The health maintenance organization has failed to pay
19 any assessment due under Article V-H of the Public Aid Code for
20 60 days following the due date of the payment (as extended by
21 any grace period granted).

22 (Source: P.A. 88-487.)

23 (215 ILCS 125/5-10 new)

24 Sec. 5-10. Managed care organizations; revenue data.

25 (a) No managed care organization shall pass the cost of the

1 assessment imposed pursuant to Article V-H of the Public Aid
2 Code on to consumers as a discrete addition to their premiums.

3 (b) The Department shall provide the Department of
4 Healthcare and Family Services with member months and premium
5 revenue data needed for implementing the assessment imposed
6 under Article V-H of the Public Aid Code.

7 Section 10-45. The Illinois Public Aid Code is amended by
8 adding the Article V-H as follows:

9 (305 ILCS 5/Art. V-H heading new)

10 ARTICLE V-H. MANAGED CARE ORGANIZATION PROVIDER ASSESSMENT.

11 (305 ILCS 5/5H-1 new)

12 Sec. 5H-1. Definitions. As used in this Article:

13 "Base year" means the 12-month period from January 1, 2018
14 to December 31, 2018.

15 "Department" means the Department of Healthcare and Family
16 Services.

17 "Federal employee health benefit" means the program of
18 health benefits plans, as defined in 5 U.S.C. 8901, available
19 to federal employees under 5 U.S.C. 8901 to 8914.

20 "Fund" means the Healthcare Provider Relief Fund.

21 "Managed care organization" means an entity operating
22 under a certificate of authority issued pursuant to the Health
23 Maintenance Organization Act or as a Managed Care Community

1 Network pursuant to Section 5-11 of the Public Aid Code.

2 "Medicaid managed care organization" means a managed care
3 organization under contract with the Department to provide
4 services to recipients of benefits in the medical assistance
5 program pursuant to Article V of the Public Aid Code, the
6 Children's Health Insurance Program Act, or the Covering ALL
7 KIDS Health Insurance Act. It does not include contracts the
8 same entity or an affiliated entity has for other business.

9 "Medicare" means the federal Medicare program established
10 under Title XVIII of the federal Social Security Act.

11 "Member months" means the aggregate total number of months
12 all individuals are enrolled for coverage in a Managed Care
13 Organization during the base year. Member months are determined
14 by the Department for Medicaid Managed Care Organizations based
15 on enrollment data in its Medicaid Management Information
16 System and by the Department of Insurance for other Managed
17 Care Organizations based on required filings with the
18 Department of Insurance. Member months do not include months
19 individuals are enrolled in a Limited Health Services
20 Organization, including stand-alone dental or vision plans, a
21 Medicare Advantage Plan, a Medicare Supplement Plan, a Medicaid
22 Medicare Alignment Initiate Plan pursuant to a Memorandum of
23 Understanding between the Department and the Federal Centers
24 for Medicare and Medicaid Services or a Federal Employee Health
25 Benefits Plan.

1 (305 ILCS 5/5H-2 new)

2 Sec. 5H-2. Federal waivers. The Department shall request a
3 waiver from the federal Centers for Medicare and Medicaid
4 Services of the broad-based and uniformity provisions of
5 Section 1903(w) (3) (B) and (C) of Title XIX of the Social
6 Security Act, 42 U.S.C. 1396b, relating to the assessment
7 imposed under this Article. The assessment required pursuant to
8 Section 5H-3 shall not be due and payable until such waiver has
9 been approved and all other federal requirements necessary to
10 obtain federal financial participation have been approved by
11 the Centers for Medicare and Medicaid Services.

12 (305 ILCS 5/5H-3 new)

13 Sec. 5H-3. Managed care assessment.

14 (a) For State Fiscal year 2020 through State Fiscal Year
15 2025, there is imposed upon managed care organization member
16 months an assessment, calculated on base year data, as set
17 forth below for the appropriate tier:

18 (1) Tier 1: \$60.20 per member month.

19 (2) Tier 2: \$1.20 per member month.

20 (3) Tier 3: \$2.40 per member month.

21 (b) The tiers are established as follows:

22 (1) Tier 1 includes the first 4,195,000 member months
23 in a Medicaid managed care organization for the base year;

24 (ii) Tier 2 includes member months over 4,195,000 in a
25 Medicaid managed care organization during the base year;

1 and

2 (iv) Tier 3 includes member months during the base year
3 in a managed care organization that is not a Medicaid
4 managed care organization.

5 (c) For State fiscal year 2020 through State fiscal year
6 2025, the Department may by rule adjust rates or tier
7 parameters or both in order to maximize the revenue generated
8 by the assessment consistent with federal regulations and to
9 meet federal statistical tests necessary for federal financial
10 participation. Any upward adjustment to the Tier 3 rate shall
11 be the minimum necessary to meet federal statistical tests.

12 (305 ILCS 5/5H-4 new)

13 Sec. 5H-4. Payment of assessment.

14 (a) The assessment payable pursuant to Section 5H-3 shall
15 be due and payable in monthly installments, each equaling
16 one-twelfth of the assessment for the year, on the first State
17 business day of each month.

18 (b) If the approval of the waivers required under Section
19 5H-2 is delayed beyond the start of State fiscal year 2020,
20 then the first installment shall be due on the first business
21 day of the first month that begins more than 15 days after the
22 date of such approval. In the event approval results in
23 installments beginning after July 1, 2019, the amount of each
24 installment for that fiscal year shall equal the full amount of
25 the annual assessment divided by the number of payments that

1 will be paid in fiscal year 2020.

2 (c) The Department shall notify each managed care
3 organization of its annual fiscal year 2020 assessment and the
4 installment due dates no later than 30 days prior to the first
5 installment due date and the annual assessment and due dates
6 for each subsequent year at least 30 days prior to the start of
7 each fiscal year.

8 (d) Proceeds from the assessment levied pursuant to Section
9 5H-3 shall be deposited into the Fund.

10 (305 ILCS 5/5H-5 new)

11 Sec. 5H-5. Liability or resultant entities. In the event of
12 a merger, acquisition, or any similar transaction involving
13 entities subject to the assessment under this Article, the
14 resultant entity shall be responsible for the full amount of
15 the assessment for all entities involved in the transaction
16 with the member months allotted to tiers as they were prior to
17 the transaction and no member months shall change tiers as a
18 result of any transaction. A managed care organization that
19 ceases doing business in the State during any fiscal year shall
20 be liable only for the monthly installments due in months that
21 they operated in the State. The Department shall by rule
22 establish a methodology to set the assessment base member
23 months for a managed care organization that begins operating in
24 the State at any time after 2018. Nothing in this Section shall
25 be construed to limit authority granted in subsection (c) of

1 Section 5H-3.

2 (305 ILCS 5/5H-6 new)

3 Sec. 5H-6. Recordkeeping; penalties.

4 (a) A managed care organization that is liable for the
5 assessment under this Article shall keep accurate and complete
6 records and pertinent documents as may be required by the
7 Department. Records required by the Department shall be
8 retained for a period of 4 years after the assessment imposed
9 under this Act to which the records apply is due or as
10 otherwise provided by law. The Department or the Department of
11 Insurance may audit all records necessary to ensure compliance
12 with this Article and make adjustments to assessment amounts
13 previously calculated based on the results of any such audit.

14 (b) If a managed care organization fails to make a payment
15 due under this Article in a timely fashion, they shall pay an
16 additional penalty of 5% of the amount of the installment not
17 paid on or before the due date, or any grace period granted,
18 plus 5% of the portion thereof remaining unpaid on the last day
19 of each 30-day period thereafter. The Department is authorized
20 to grant grace periods of up to 30 days upon request of a
21 managed care organization for good cause due to financial or
22 other difficulties, as determined by the Department. If a
23 managed care organization fails to make a payment within 60
24 days after the due date the Department shall additionally
25 impose a contractual sanction allowed against a Medicaid

1 managed care organization and may terminate any such contract.
2 The Department of Insurance shall take action against the
3 certificate of authority of a non-Medicaid managed care
4 organization that fails to pay an installment within 60 days
5 after the due date.

6 (305 ILCS 5/5H-7 new)

7 Sec. 5H-7. Rulemaking. The Department may by rule modify or
8 make adjustments to any methodology, assessment amount,
9 assessment tier, or other similar provision specified in this
10 Article, including broadening the tax base in subsection (a) of
11 Section 5H-3, to the extent necessary to meet the requirements
12 of federal law or regulations, obtain federal approval, or to
13 ensure federal financial participation is available. However,
14 upward adjustments to Tier 3 rates shall be the minimum
15 necessary to meet federal statistical tests to receive federal
16 financial participation. The Department shall adopt rules to
17 implement this Article under the Illinois Administrative
18 Procedure Act.

19 (305 ILCS 5/5H-8 new)

20 Sec. 5H-8. Duties of the Department.

21 (a) The Department shall ensure that rates to Medicaid
22 managed care organizations are actuarially sound including
23 appropriate incorporation of assessments under this Article,
24 other taxes and administrative expenses, including

1 standardization of processes, and cost of medical care.

2 (b) The Department shall pay to each Medicaid managed care
3 organization the amount required to be included in its rates
4 due to the assessment under this Article in order to ensure
5 actuarial soundness within 10 business days of receipt of each
6 assessment payment from the Medicaid managed care
7 organization. The Department shall extend the deadline for any
8 assessment payment due after the initial assessment payment if
9 the payment to the managed care organizations under this
10 subsection for the previous assessment payment has not been
11 paid. Such extension shall extend until 7 business days after
12 receipt by the managed care organization of the late payment
13 under this subsection.

14 (c) Reimbursement of assessments paid under this Article
15 shall not be required to count as revenue towards any
16 calculation of the managed care organization's medical loss
17 ratio, net worth, risk based capital or other deposit
18 requirements as may otherwise be required under the Insurance
19 Code. Such reimbursements will be considered revenue in
20 calculating the 6% limit under 42 U.S.C. 433.68(f)(3).

21 (d) The Department shall include in its annual report,
22 beginning with its fiscal year 2020 report, and every year
23 thereafter, information on the revenues collected from this
24 assessment, the federal funds drawn based on those revenues,
25 the rates set in Section 5H-3 or any alterations thereof by
26 administrative rule, and other impacts this gross revenue has

1 had on the Medicaid program.

2 Section 10-50. The Franchise Tax and License Fee Amnesty
3 Act of 2007 is amended by changing Section 5-10 as follows:

4 (805 ILCS 8/5-10)

5 Sec. 5-10. Amnesty program. The Secretary shall establish
6 an amnesty program for all taxpayers owing any franchise tax or
7 license fee imposed by Article XV of the Business Corporation
8 Act of 1983. The amnesty program shall be for a period from
9 February 1, 2008 through March 15, 2008. The amnesty program
10 shall also be for a period between October 1, 2019 and November
11 15, 2019, and shall apply to franchise tax or license fee
12 liabilities for any tax period ending after March 15, 2008 and
13 on or before June 30, 2019. The amnesty program shall provide
14 that, upon payment by a taxpayer of all franchise taxes and
15 license fees due from that taxpayer to the State of Illinois
16 for any taxable period, the Secretary shall abate and not seek
17 to collect any interest or penalties that may be applicable,
18 and the Secretary shall not seek civil or criminal prosecution
19 for any taxpayer for the period of time for which amnesty has
20 been granted to the taxpayer. Failure to pay all taxes due to
21 the State for a taxable period shall not invalidate any amnesty
22 granted under this Act with respect to the taxes paid pursuant
23 to the amnesty program. Amnesty shall be granted only if all
24 amnesty conditions are satisfied by the taxpayer. Amnesty shall

1 not be granted to taxpayers who are a party to any criminal
2 investigation or to any civil or criminal litigation that is
3 pending in any circuit court or appellate court or the Supreme
4 Court of this State for nonpayment, delinquency, or fraud in
5 relation to any franchise tax or license fee imposed by Article
6 XV of the Business Corporation Act of 1983. Voluntary payments
7 made under this Act shall be made by check, guaranteed
8 remittance, or ACH debit. The Secretary shall adopt rules as
9 necessary to implement the provisions of this Act. Except as
10 otherwise provided in this Section, all moneys collected under
11 this Act that would otherwise be deposited into the General
12 Revenue Fund shall be deposited into the General Revenue Fund.
13 Two percent of all moneys collected under this Act shall be
14 deposited by the State Treasurer into the Franchise Tax and
15 License Fee Amnesty Administration Fund. Except as otherwise
16 provided in this Section, all money collected under this Act
17 that would otherwise be deposited into the General Revenue Fund
18 shall be deposited into the General Revenue Fund. Two percent
19 of all money collected under this Act shall be deposited by the
20 State Treasurer into the Franchise Tax and License Fee Amnesty
21 Administration Fund and, subject to appropriation, shall be
22 used by the Secretary to cover costs associated with the
23 administration of this Act.

24 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08.)

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.".