

# HB3633



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB3633**

by Rep. Natalie A. Manley

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. Provides that, for purposes of being liable for income tax, compensation is paid in this State if some of the individual's service is performed within this State, the individual's service performed within this State is nonincidental to the individual's service performed without this State, and the individual's service is performed within this State for more than 30 working days during the tax year. Defines terms. Effective immediately.

LRB101 10562 HLH 55668 b

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

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

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

5 (1) Property factor.

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

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

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

25 (2) Payroll factor.

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

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

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

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

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

12 (iii) For tax years ending prior to December 31,  
13 2019, some ~~Some~~ of the service is performed within this  
14 State and either the base of operations, or if there is  
15 no base of operations, the place from which the service  
16 is directed or controlled is within this State, or the  
17 base of operations or the place from which the service  
18 is directed or controlled is not in any state in which  
19 some part of the service is performed, but the  
20 individual's residence is in this State. For tax years  
21 ending on or after December 31, 2019, compensation is  
22 paid in this State if some of the individual's service  
23 is performed within this State, the individual's  
24 service performed within this State is nonincidental  
25 to the individual's service performed without this  
26 State, and the individual's service is performed

1 within this State for more than 30 working days during  
2 the tax year. The amount of compensation paid in this  
3 State shall include the portion of the individual's  
4 total compensation for services performed on behalf of  
5 his or her employer during the tax year which the  
6 number of working days spent within this State during  
7 the tax year bears to the total number of working days  
8 spent both within and without this State during the tax  
9 year. For purposes of this paragraph:

10 (a) The term "working day" means all days  
11 during the tax year in which the individual  
12 performs duties on behalf of his or her employer.  
13 All days in which the individual performs no duties  
14 on behalf of his or her employer (e.g., weekends,  
15 vacation days, sick days, and holidays) are not  
16 working days.

17 (b) A working day is spent within this State  
18 if:

19 (1) the individual performs service on  
20 behalf of the employer and a greater amount of  
21 time on that day is spent by the individual  
22 performing duties on behalf of the employer  
23 within this State, without regard to time spent  
24 traveling, than is spent performing duties on  
25 behalf of the employer without this State; or

26 (2) the only service the individual

1                   performs on behalf of the employer on that day  
2                   is traveling to a destination within this  
3                   State, and the individual arrives on that day.

4                   (iv) Compensation paid to nonresident professional  
5 athletes.

6                   (a) General. The Illinois source income of a  
7 nonresident individual who is a member of a  
8 professional athletic team includes the portion of the  
9 individual's total compensation for services performed  
10 as a member of a professional athletic team during the  
11 taxable year which the number of duty days spent within  
12 this State performing services for the team in any  
13 manner during the taxable year bears to the total  
14 number of duty days spent both within and without this  
15 State during the taxable year.

16                   (b) Travel days. Travel days that do not involve  
17 either a game, practice, team meeting, or other similar  
18 team event are not considered duty days spent in this  
19 State. However, such travel days are considered in the  
20 total duty days spent both within and without this  
21 State.

22                   (c) Definitions. For purposes of this subpart  
23 (iv):

24                   (1) The term "professional athletic team"  
25 includes, but is not limited to, any professional  
26 baseball, basketball, football, soccer, or hockey

1 team.

2 (2) The term "member of a professional  
3 athletic team" includes those employees who are  
4 active players, players on the disabled list, and  
5 any other persons required to travel and who travel  
6 with and perform services on behalf of a  
7 professional athletic team on a regular basis.  
8 This includes, but is not limited to, coaches,  
9 managers, and trainers.

10 (3) Except as provided in items (C) and (D) of  
11 this subpart (3), the term "duty days" means all  
12 days during the taxable year from the beginning of  
13 the professional athletic team's official  
14 pre-season training period through the last game  
15 in which the team competes or is scheduled to  
16 compete. Duty days shall be counted for the year in  
17 which they occur, including where a team's  
18 official pre-season training period through the  
19 last game in which the team competes or is  
20 scheduled to compete, occurs during more than one  
21 tax year.

22 (A) Duty days shall also include days on  
23 which a member of a professional athletic team  
24 performs service for a team on a date that does  
25 not fall within the foregoing period (e.g.,  
26 participation in instructional leagues, the

1 "All Star Game", or promotional "caravans").  
2 Performing a service for a professional  
3 athletic team includes conducting training and  
4 rehabilitation activities, when such  
5 activities are conducted at team facilities.

6 (B) Also included in duty days are game  
7 days, practice days, days spent at team  
8 meetings, promotional caravans, preseason  
9 training camps, and days served with the team  
10 through all post-season games in which the team  
11 competes or is scheduled to compete.

12 (C) Duty days for any person who joins a  
13 team during the period from the beginning of  
14 the professional athletic team's official  
15 pre-season training period through the last  
16 game in which the team competes, or is  
17 scheduled to compete, shall begin on the day  
18 that person joins the team. Conversely, duty  
19 days for any person who leaves a team during  
20 this period shall end on the day that person  
21 leaves the team. Where a person switches teams  
22 during a taxable year, a separate duty-day  
23 calculation shall be made for the period the  
24 person was with each team.

25 (D) Days for which a member of a  
26 professional athletic team is not compensated



1 and is not performing services for the team in  
2 any manner, including days when such member of  
3 a professional athletic team has been  
4 suspended without pay and prohibited from  
5 performing any services for the team, shall not  
6 be treated as duty days.

7 (E) Days for which a member of a  
8 professional athletic team is on the disabled  
9 list and does not conduct rehabilitation  
10 activities at facilities of the team, and is  
11 not otherwise performing services for the team  
12 in Illinois, shall not be considered duty days  
13 spent in this State. All days on the disabled  
14 list, however, are considered to be included in  
15 total duty days spent both within and without  
16 this State.

17 (4) The term "total compensation for services  
18 performed as a member of a professional athletic  
19 team" means the total compensation received during  
20 the taxable year for services performed:

21 (A) from the beginning of the official  
22 pre-season training period through the last  
23 game in which the team competes or is scheduled  
24 to compete during that taxable year; and

25 (B) during the taxable year on a date which  
26 does not fall within the foregoing period

1 (e.g., participation in instructional leagues,  
2 the "All Star Game", or promotional caravans).

3 This compensation shall include, but is not  
4 limited to, salaries, wages, bonuses as described  
5 in this subpart, and any other type of compensation  
6 paid during the taxable year to a member of a  
7 professional athletic team for services performed  
8 in that year. This compensation does not include  
9 strike benefits, severance pay, termination pay,  
10 contract or option year buy-out payments,  
11 expansion or relocation payments, or any other  
12 payments not related to services performed for the  
13 team.

14 For purposes of this subparagraph, "bonuses"  
15 included in "total compensation for services  
16 performed as a member of a professional athletic  
17 team" subject to the allocation described in  
18 Section 302(c)(1) are: bonuses earned as a result  
19 of play (i.e., performance bonuses) during the  
20 season, including bonuses paid for championship,  
21 playoff or "bowl" games played by a team, or for  
22 selection to all-star league or other honorary  
23 positions; and bonuses paid for signing a  
24 contract, unless the payment of the signing bonus  
25 is not conditional upon the signee playing any  
26 games for the team or performing any subsequent

1 services for the team or even making the team, the  
2 signing bonus is payable separately from the  
3 salary and any other compensation, and the signing  
4 bonus is nonrefundable.

5 (3) Sales factor.

6 (A) The sales factor is a fraction, the numerator of  
7 which is the total sales of the person in this State during  
8 the taxable year, and the denominator of which is the total  
9 sales of the person everywhere during the taxable year.

10 (B) Sales of tangible personal property are in this  
11 State if:

12 (i) The property is delivered or shipped to a  
13 purchaser, other than the United States government,  
14 within this State regardless of the f. o. b. point or  
15 other conditions of the sale; or

16 (ii) The property is shipped from an office, store,  
17 warehouse, factory or other place of storage in this  
18 State and either the purchaser is the United States  
19 government or the person is not taxable in the state of  
20 the purchaser; provided, however, that premises owned  
21 or leased by a person who has independently contracted  
22 with the seller for the printing of newspapers,  
23 periodicals or books shall not be deemed to be an  
24 office, store, warehouse, factory or other place of  
25 storage for purposes of this Section. Sales of tangible  
26 personal property are not in this State if the seller

1 and purchaser would be members of the same unitary  
2 business group but for the fact that either the seller  
3 or purchaser is a person with 80% or more of total  
4 business activity outside of the United States and the  
5 property is purchased for resale.

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

8 (i) Gross receipts from the licensing, sale, or  
9 other disposition of a patent, copyright, trademark,  
10 or similar item of intangible personal property, other  
11 than gross receipts governed by paragraph (B-7) of this  
12 item (3), are in this State to the extent the item is  
13 utilized in this State during the year the gross  
14 receipts are included in gross income.

15 (ii) Place of utilization.

16 (I) A patent is utilized in a state to the  
17 extent that it is employed in production,  
18 fabrication, manufacturing, or other processing in  
19 the state or to the extent that a patented product  
20 is produced in the state. If a patent is utilized  
21 in more than one state, the extent to which it is  
22 utilized in any one state shall be a fraction equal  
23 to the gross receipts of the licensee or purchaser  
24 from sales or leases of items produced,  
25 fabricated, manufactured, or processed within that  
26 state using the patent and of patented items

1 produced within that state, divided by the total of  
2 such gross receipts for all states in which the  
3 patent is utilized.

4 (II) A copyright is utilized in a state to the  
5 extent that printing or other publication  
6 originates in the state. If a copyright is utilized  
7 in more than one state, the extent to which it is  
8 utilized in any one state shall be a fraction equal  
9 to the gross receipts from sales or licenses of  
10 materials printed or published in that state  
11 divided by the total of such gross receipts for all  
12 states in which the copyright is utilized.

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

17 (iii) If the state of utilization of an item of  
18 property governed by this paragraph (B-1) cannot be  
19 determined from the taxpayer's books and records or  
20 from the books and records of any person related to the  
21 taxpayer within the meaning of Section 267(b) of the  
22 Internal Revenue Code, 26 U.S.C. 267, the gross  
23 receipts attributable to that item shall be excluded  
24 from both the numerator and the denominator of the  
25 sales factor.

26 (B-2) Gross receipts from the license, sale, or other

1 disposition of patents, copyrights, trademarks, and  
2 similar items of intangible personal property, other than  
3 gross receipts governed by paragraph (B-7) of this item  
4 (3), may be included in the numerator or denominator of the  
5 sales factor only if gross receipts from licenses, sales,  
6 or other disposition of such items comprise more than 50%  
7 of the taxpayer's total gross receipts included in gross  
8 income during the tax year and during each of the 2  
9 immediately preceding tax years; provided that, when a  
10 taxpayer is a member of a unitary business group, such  
11 determination shall be made on the basis of the gross  
12 receipts of the entire unitary business group.

13 (B-5) For taxable years ending on or after December 31,  
14 2008, except as provided in subsections (ii) through (vii),  
15 receipts from the sale of telecommunications service or  
16 mobile telecommunications service are in this State if the  
17 customer's service address is in this State.

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

20 "Ancillary services" means services that are  
21 associated with or incidental to the provision of  
22 "telecommunications services", including but not  
23 limited to "detailed telecommunications billing",  
24 "directory assistance", "vertical service", and "voice  
25 mail services".

26 "Air-to-Ground Radiotelephone service" means a

1 radio service, as that term is defined in 47 CFR 22.99,  
2 in which common carriers are authorized to offer and  
3 provide radio telecommunications service for hire to  
4 subscribers in aircraft.

5 "Call-by-call Basis" means any method of charging  
6 for telecommunications services where the price is  
7 measured by individual calls.

8 "Communications Channel" means a physical or  
9 virtual path of communications over which signals are  
10 transmitted between or among customer channel  
11 termination points.

12 "Conference bridging service" means an "ancillary  
13 service" that links two or more participants of an  
14 audio or video conference call and may include the  
15 provision of a telephone number. "Conference bridging  
16 service" does not include the "telecommunications  
17 services" used to reach the conference bridge.

18 "Customer Channel Termination Point" means the  
19 location where the customer either inputs or receives  
20 the communications.

21 "Detailed telecommunications billing service"  
22 means an "ancillary service" of separately stating  
23 information pertaining to individual calls on a  
24 customer's billing statement.

25 "Directory assistance" means an "ancillary  
26 service" of providing telephone number information,

1 and/or address information.

2 "Home service provider" means the facilities based  
3 carrier or reseller with which the customer contracts  
4 for the provision of mobile telecommunications  
5 services.

6 "Mobile telecommunications service" means  
7 commercial mobile radio service, as defined in Section  
8 20.3 of Title 47 of the Code of Federal Regulations as  
9 in effect on June 1, 1999.

10 "Place of primary use" means the street address  
11 representative of where the customer's use of the  
12 telecommunications service primarily occurs, which  
13 must be the residential street address or the primary  
14 business street address of the customer. In the case of  
15 mobile telecommunications services, "place of primary  
16 use" must be within the licensed service area of the  
17 home service provider.

18 "Post-paid telecommunication service" means the  
19 telecommunications service obtained by making a  
20 payment on a call-by-call basis either through the use  
21 of a credit card or payment mechanism such as a bank  
22 card, travel card, credit card, or debit card, or by  
23 charge made to a telephone number which is not  
24 associated with the origination or termination of the  
25 telecommunications service. A post-paid calling  
26 service includes telecommunications service, except a



1 prepaid wireless calling service, that would be a  
2 prepaid calling service except it is not exclusively a  
3 telecommunication service.

4 "Prepaid telecommunication service" means the  
5 right to access exclusively telecommunications  
6 services, which must be paid for in advance and which  
7 enables the origination of calls using an access number  
8 or authorization code, whether manually or  
9 electronically dialed, and that is sold in  
10 predetermined units or dollars of which the number  
11 declines with use in a known amount.

12 "Prepaid Mobile telecommunication service" means a  
13 telecommunications service that provides the right to  
14 utilize mobile wireless service as well as other  
15 non-telecommunication services, including but not  
16 limited to ancillary services, which must be paid for  
17 in advance that is sold in predetermined units or  
18 dollars of which the number declines with use in a  
19 known amount.

20 "Private communication service" means a  
21 telecommunication service that entitles the customer  
22 to exclusive or priority use of a communications  
23 channel or group of channels between or among  
24 termination points, regardless of the manner in which  
25 such channel or channels are connected, and includes  
26 switching capacity, extension lines, stations, and any

1 other associated services that are provided in  
2 connection with the use of such channel or channels.

3 "Service address" means:

4 (a) The location of the telecommunications  
5 equipment to which a customer's call is charged and  
6 from which the call originates or terminates,  
7 regardless of where the call is billed or paid;

8 (b) If the location in line (a) is not known,  
9 service address means the origination point of the  
10 signal of the telecommunications services first  
11 identified by either the seller's  
12 telecommunications system or in information  
13 received by the seller from its service provider  
14 where the system used to transport such signals is  
15 not that of the seller; and

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

19 "Telecommunications service" means the electronic  
20 transmission, conveyance, or routing of voice, data,  
21 audio, video, or any other information or signals to a  
22 point, or between or among points. The term  
23 "telecommunications service" includes such  
24 transmission, conveyance, or routing in which computer  
25 processing applications are used to act on the form,  
26 code or protocol of the content for purposes of

1 transmission, conveyance or routing without regard to  
2 whether such service is referred to as voice over  
3 Internet protocol services or is classified by the  
4 Federal Communications Commission as enhanced or value  
5 added. "Telecommunications service" does not include:

6 (a) Data processing and information services  
7 that allow data to be generated, acquired, stored,  
8 processed, or retrieved and delivered by an  
9 electronic transmission to a purchaser when such  
10 purchaser's primary purpose for the underlying  
11 transaction is the processed data or information;

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

14 (c) Tangible personal property;

15 (d) Advertising, including but not limited to  
16 directory advertising;

17 (e) Billing and collection services provided  
18 to third parties;

19 (f) Internet access service;

20 (g) Radio and television audio and video  
21 programming services, regardless of the medium,  
22 including the furnishing of transmission,  
23 conveyance and routing of such services by the  
24 programming service provider. Radio and television  
25 audio and video programming services shall include  
26 but not be limited to cable service as defined in

1           47 USC 522(6) and audio and video programming  
2           services delivered by commercial mobile radio  
3           service providers, as defined in 47 CFR 20.3;

4           (h) "Ancillary services"; or

5           (i)       Digital       products       "delivered  
6           electronically", including but not limited to  
7           software, music, video, reading materials or ring  
8           tones.

9           "Vertical service" means an "ancillary service"  
10          that is offered in connection with one or more  
11          "telecommunications services", which offers advanced  
12          calling features that allow customers to identify  
13          callers and to manage multiple calls and call  
14          connections, including "conference bridging services".

15          "Voice mail service" means an "ancillary service"  
16          that enables the customer to store, send or receive  
17          recorded messages. "Voice mail service" does not  
18          include any "vertical services" that the customer may  
19          be required to have in order to utilize the "voice mail  
20          service".

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

24               (a) The call both originates and terminates in  
25               this State.

26               (b) The call either originates or terminates

1           in this State and the service address is located in  
2           this State.

3           (iii) Receipts from the sale of postpaid  
4           telecommunications service at retail are in this State  
5           if the origination point of the telecommunication  
6           signal, as first identified by the service provider's  
7           telecommunication system or as identified by  
8           information received by the seller from its service  
9           provider if the system used to transport  
10          telecommunication signals is not the seller's, is  
11          located in this State.

12          (iv) Receipts from the sale of prepaid  
13          telecommunications service or prepaid mobile  
14          telecommunications service at retail are in this State  
15          if the purchaser obtains the prepaid card or similar  
16          means of conveyance at a location in this State.  
17          Receipts from recharging a prepaid telecommunications  
18          service or mobile telecommunications service is in  
19          this State if the purchaser's billing information  
20          indicates a location in this State.

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

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

25                 (b) 100% of receipts from charges for the total  
26                 channel mileage between each channel termination

1 point in this State.

2 (c) 50% of the total receipts from charges for  
3 service segments when those segments are between 2  
4 customer channel termination points, 1 of which is  
5 located in this State and the other is located  
6 outside of this State, which segments are  
7 separately charged.

8 (d) The receipts from charges for service  
9 segments with a channel termination point located  
10 in this State and in two or more other states, and  
11 which segments are not separately billed, are in  
12 this State based on a percentage determined by  
13 dividing the number of customer channel  
14 termination points in this State by the total  
15 number of customer channel termination points.

16 (vi) Receipts from charges for ancillary services  
17 for telecommunications service sold to customers at  
18 retail are in this State if the customer's primary  
19 place of use of telecommunications services associated  
20 with those ancillary services is in this State. If the  
21 seller of those ancillary services cannot determine  
22 where the associated telecommunications are located,  
23 then the ancillary services shall be based on the  
24 location of the purchaser.

25 (vii) Receipts to access a carrier's network or  
26 from the sale of telecommunication services or

1 ancillary services for resale are in this State as  
2 follows:

3 (a) 100% of the receipts from access fees  
4 attributable to intrastate telecommunications  
5 service that both originates and terminates in  
6 this State.

7 (b) 50% of the receipts from access fees  
8 attributable to interstate telecommunications  
9 service if the interstate call either originates  
10 or terminates in this State.

11 (c) 100% of the receipts from interstate end  
12 user access line charges, if the customer's  
13 service address is in this State. As used in this  
14 subdivision, "interstate end user access line  
15 charges" includes, but is not limited to, the  
16 surcharge approved by the federal communications  
17 commission and levied pursuant to 47 CFR 69.

18 (d) Gross receipts from sales of  
19 telecommunication services or from ancillary  
20 services for telecommunications services sold to  
21 other telecommunication service providers for  
22 resale shall be sourced to this State using the  
23 apportionment concepts used for non-resale  
24 receipts of telecommunications services if the  
25 information is readily available to make that  
26 determination. If the information is not readily

1           available, then the taxpayer may use any other  
2           reasonable and consistent method.

3           (B-7) For taxable years ending on or after December 31,  
4           2008, receipts from the sale of broadcasting services are  
5           in this State if the broadcasting services are received in  
6           this State. For purposes of this paragraph (B-7), the  
7           following terms have the following meanings:

8           "Advertising revenue" means consideration received  
9           by the taxpayer in exchange for broadcasting services  
10          or allowing the broadcasting of commercials or  
11          announcements in connection with the broadcasting of  
12          film or radio programming, from sponsorships of the  
13          programming, or from product placements in the  
14          programming.

15          "Audience factor" means the ratio that the  
16          audience or subscribers located in this State of a  
17          station, a network, or a cable system bears to the  
18          total audience or total subscribers for that station,  
19          network, or cable system. The audience factor for film  
20          or radio programming shall be determined by reference  
21          to the books and records of the taxpayer or by  
22          reference to published rating statistics provided the  
23          method used by the taxpayer is consistently used from  
24          year to year for this purpose and fairly represents the  
25          taxpayer's activity in this State.

26          "Broadcast" or "broadcasting" or "broadcasting



1 services" means the transmission or provision of film  
2 or radio programming, whether through the public  
3 airwaves, by cable, by direct or indirect satellite  
4 transmission, or by any other means of communication,  
5 either through a station, a network, or a cable system.

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

17 "Radio" or "radio programming" means the broadcast  
18 on radio of any and all performances, events, or  
19 productions, including but not limited to news,  
20 sporting events, plays, stories, or other literary,  
21 commercial, educational, or artistic works, either  
22 live or through the use of an audio tape, disc, or any  
23 other format or medium. Each episode in a series of  
24 radio programming produced for radio broadcast shall  
25 constitute a separate "radio programming"  
26 notwithstanding that the series relates to the same

1 principal subject and is produced during one or more  
2 tax periods.

3 (i) In the case of advertising revenue from  
4 broadcasting, the customer is the advertiser and  
5 the service is received in this State if the  
6 commercial domicile of the advertiser is in this  
7 State.

8 (ii) In the case where film or radio  
9 programming is broadcast by a station, a network,  
10 or a cable system for a fee or other remuneration  
11 received from the recipient of the broadcast, the  
12 portion of the service that is received in this  
13 State is measured by the portion of the recipients  
14 of the broadcast located in this State.  
15 Accordingly, the fee or other remuneration for  
16 such service that is included in the Illinois  
17 numerator of the sales factor is the total of those  
18 fees or other remuneration received from  
19 recipients in Illinois. For purposes of this  
20 paragraph, a taxpayer may determine the location  
21 of the recipients of its broadcast using the  
22 address of the recipient shown in its contracts  
23 with the recipient or using the billing address of  
24 the recipient in the taxpayer's records.

25 (iii) In the case where film or radio  
26 programming is broadcast by a station, a network,

1 or a cable system for a fee or other remuneration  
2 from the person providing the programming, the  
3 portion of the broadcast service that is received  
4 by such station, network, or cable system in this  
5 State is measured by the portion of recipients of  
6 the broadcast located in this State. Accordingly,  
7 the amount of revenue related to such an  
8 arrangement that is included in the Illinois  
9 numerator of the sales factor is the total fee or  
10 other total remuneration from the person providing  
11 the programming related to that broadcast  
12 multiplied by the Illinois audience factor for  
13 that broadcast.

14 (iv) In the case where film or radio  
15 programming is provided by a taxpayer that is a  
16 network or station to a customer for broadcast in  
17 exchange for a fee or other remuneration from that  
18 customer the broadcasting service is received at  
19 the location of the office of the customer from  
20 which the services were ordered in the regular  
21 course of the customer's trade or business.  
22 Accordingly, in such a case the revenue derived by  
23 the taxpayer that is included in the taxpayer's  
24 Illinois numerator of the sales factor is the  
25 revenue from such customers who receive the  
26 broadcasting service in Illinois.

1           (v) In the case where film or radio programming  
2           is provided by a taxpayer that is not a network or  
3           station to another person for broadcasting in  
4           exchange for a fee or other remuneration from that  
5           person, the broadcasting service is received at  
6           the location of the office of the customer from  
7           which the services were ordered in the regular  
8           course of the customer's trade or business.  
9           Accordingly, in such a case the revenue derived by  
10          the taxpayer that is included in the taxpayer's  
11          Illinois numerator of the sales factor is the  
12          revenue from such customers who receive the  
13          broadcasting service in Illinois.

14          (B-8) Gross receipts from winnings under the Illinois  
15          Lottery Law from the assignment of a prize under Section  
16          13.1 of the Illinois Lottery Law are received in this  
17          State. This paragraph (B-8) applies only to taxable years  
18          ending on or after December 31, 2013.

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

22               (i) The income-producing activity is performed in  
23               this State; or

24               (ii) The income-producing activity is performed  
25               both within and without this State and a greater  
26               proportion of the income-producing activity is

1 performed within this State than without this State,  
2 based on performance costs.

3 (C-5) For taxable years ending on or after December 31,  
4 2008, sales, other than sales governed by paragraphs (B),  
5 (B-1), (B-2), (B-5), and (B-7), are in this State if any of  
6 the following criteria are met:

7 (i) Sales from the sale or lease of real property  
8 are in this State if the property is located in this  
9 State.

10 (ii) Sales from the lease or rental of tangible  
11 personal property are in this State if the property is  
12 located in this State during the rental period. Sales  
13 from the lease or rental of tangible personal property  
14 that is characteristically moving property, including,  
15 but not limited to, motor vehicles, rolling stock,  
16 aircraft, vessels, or mobile equipment are in this  
17 State to the extent that the property is used in this  
18 State.

19 (iii) In the case of interest, net gains (but not  
20 less than zero) and other items of income from  
21 intangible personal property, the sale is in this State  
22 if:

23 (a) in the case of a taxpayer who is a dealer  
24 in the item of intangible personal property within  
25 the meaning of Section 475 of the Internal Revenue  
26 Code, the income or gain is received from a

1 customer in this State. For purposes of this  
2 subparagraph, a customer is in this State if the  
3 customer is an individual, trust or estate who is a  
4 resident of this State and, for all other  
5 customers, if the customer's commercial domicile  
6 is in this State. Unless the dealer has actual  
7 knowledge of the residence or commercial domicile  
8 of a customer during a taxable year, the customer  
9 shall be deemed to be a customer in this State if  
10 the billing address of the customer, as shown in  
11 the records of the dealer, is in this State; or

12 (b) in all other cases, if the  
13 income-producing activity of the taxpayer is  
14 performed in this State or, if the  
15 income-producing activity of the taxpayer is  
16 performed both within and without this State, if a  
17 greater proportion of the income-producing  
18 activity of the taxpayer is performed within this  
19 State than in any other state, based on performance  
20 costs.

21 (iv) Sales of services are in this State if the  
22 services are received in this State. For the purposes  
23 of this section, gross receipts from the performance of  
24 services provided to a corporation, partnership, or  
25 trust may only be attributed to a state where that  
26 corporation, partnership, or trust has a fixed place of

1 business. If the state where the services are received  
2 is not readily determinable or is a state where the  
3 corporation, partnership, or trust receiving the  
4 service does not have a fixed place of business, the  
5 services shall be deemed to be received at the location  
6 of the office of the customer from which the services  
7 were ordered in the regular course of the customer's  
8 trade or business. If the ordering office cannot be  
9 determined, the services shall be deemed to be received  
10 at the office of the customer to which the services are  
11 billed. If the taxpayer is not taxable in the state in  
12 which the services are received, the sale must be  
13 excluded from both the numerator and the denominator of  
14 the sales factor. The Department shall adopt rules  
15 prescribing where specific types of service are  
16 received, including, but not limited to, publishing,  
17 and utility service.

18 (D) For taxable years ending on or after December 31,  
19 1995, the following items of income shall not be included  
20 in the numerator or denominator of the sales factor:  
21 dividends; amounts included under Section 78 of the  
22 Internal Revenue Code; and Subpart F income as defined in  
23 Section 952 of the Internal Revenue Code. No inference  
24 shall be drawn from the enactment of this paragraph (D) in  
25 construing this Section for taxable years ending before  
26 December 31, 1995.

1 (E) Paragraphs (B-1) and (B-2) shall apply to tax years  
2 ending on or after December 31, 1999, provided that a  
3 taxpayer may elect to apply the provisions of these  
4 paragraphs to prior tax years. Such election shall be made  
5 in the form and manner prescribed by the Department, shall  
6 be irrevocable, and shall apply to all tax years; provided  
7 that, if a taxpayer's Illinois income tax liability for any  
8 tax year, as assessed under Section 903 prior to January 1,  
9 1999, was computed in a manner contrary to the provisions  
10 of paragraphs (B-1) or (B-2), no refund shall be payable to  
11 the taxpayer for that tax year to the extent such refund is  
12 the result of applying the provisions of paragraph (B-1) or  
13 (B-2) retroactively. In the case of a unitary business  
14 group, such election shall apply to all members of such  
15 group for every tax year such group is in existence, but  
16 shall not apply to any taxpayer for any period during which  
17 that taxpayer is not a member of such group.

18 (b) Insurance companies.

19 (1) In general. Except as otherwise provided by  
20 paragraph (2), business income of an insurance company for  
21 a taxable year shall be apportioned to this State by  
22 multiplying such income by a fraction, the numerator of  
23 which is the direct premiums written for insurance upon  
24 property or risk in this State, and the denominator of  
25 which is the direct premiums written for insurance upon  
26 property or risk everywhere. For purposes of this



1 subsection, the term "direct premiums written" means the  
2 total amount of direct premiums written, assessments and  
3 annuity considerations as reported for the taxable year on  
4 the annual statement filed by the company with the Illinois  
5 Director of Insurance in the form approved by the National  
6 Convention of Insurance Commissioners or such other form as  
7 may be prescribed in lieu thereof.

8 (2) Reinsurance. If the principal source of premiums  
9 written by an insurance company consists of premiums for  
10 reinsurance accepted by it, the business income of such  
11 company shall be apportioned to this State by multiplying  
12 such income by a fraction, the numerator of which is the  
13 sum of (i) direct premiums written for insurance upon  
14 property or risk in this State, plus (ii) premiums written  
15 for reinsurance accepted in respect of property or risk in  
16 this State, and the denominator of which is the sum of  
17 (iii) direct premiums written for insurance upon property  
18 or risk everywhere, plus (iv) premiums written for  
19 reinsurance accepted in respect of property or risk  
20 everywhere. For purposes of this paragraph, premiums  
21 written for reinsurance accepted in respect of property or  
22 risk in this State, whether or not otherwise determinable,  
23 may, at the election of the company, be determined on the  
24 basis of the proportion which premiums written for  
25 reinsurance accepted from companies commercially domiciled  
26 in Illinois bears to premiums written for reinsurance

1           accepted from all sources, or, alternatively, in the  
2           proportion which the sum of the direct premiums written for  
3           insurance upon property or risk in this State by each  
4           ceding company from which reinsurance is accepted bears to  
5           the sum of the total direct premiums written by each such  
6           ceding company for the taxable year. The election made by a  
7           company under this paragraph for its first taxable year  
8           ending on or after December 31, 2011, shall be binding for  
9           that company for that taxable year and for all subsequent  
10          taxable years, and may be altered only with the written  
11          permission of the Department, which shall not be  
12          unreasonably withheld.

13          (c) Financial organizations.

14           (1) In general. For taxable years ending before  
15          December 31, 2008, business income of a financial  
16          organization shall be apportioned to this State by  
17          multiplying such income by a fraction, the numerator of  
18          which is its business income from sources within this  
19          State, and the denominator of which is its business income  
20          from all sources. For the purposes of this subsection, the  
21          business income of a financial organization from sources  
22          within this State is the sum of the amounts referred to in  
23          subparagraphs (A) through (E) following, but excluding the  
24          adjusted income of an international banking facility as  
25          determined in paragraph (2):

26           (A) Fees, commissions or other compensation for

1 financial services rendered within this State;

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

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

6 (D) Interest charged to customers at places of  
7 business maintained within this State for carrying  
8 debit balances of margin accounts, without deduction  
9 of any costs incurred in carrying such accounts; and

10 (E) Any other gross income resulting from the  
11 operation as a financial organization within this  
12 State. In computing the amounts referred to in  
13 paragraphs (A) through (E) of this subsection, any  
14 amount received by a member of an affiliated group  
15 (determined under Section 1504(a) of the Internal  
16 Revenue Code but without reference to whether any such  
17 corporation is an "includible corporation" under  
18 Section 1504(b) of the Internal Revenue Code) from  
19 another member of such group shall be included only to  
20 the extent such amount exceeds expenses of the  
21 recipient directly related thereto.

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

24 (A) Adjusted Income. The adjusted income of an  
25 international banking facility is its income reduced  
26 by the amount of the floor amount.

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

5 (i) The numerator shall be:

6 The average aggregate, determined on a  
7 quarterly basis, of the financial organization's  
8 loans to banks in foreign countries, to foreign  
9 domiciled borrowers (except where secured  
10 primarily by real estate) and to foreign  
11 governments and other foreign official  
12 institutions, as reported for its branches,  
13 agencies and offices within the state on its  
14 "Consolidated Report of Condition", Schedule A,  
15 Lines 2.c., 5.b., and 7.a., which was filed with  
16 the Federal Deposit Insurance Corporation and  
17 other regulatory authorities, for the year 1980,  
18 minus

19 The average aggregate, determined on a  
20 quarterly basis, of such loans (other than loans of  
21 an international banking facility), as reported by  
22 the financial institution for its branches,  
23 agencies and offices within the state, on the  
24 corresponding Schedule and lines of the  
25 Consolidated Report of Condition for the current  
26 taxable year, provided, however, that in no case

1 shall the amount determined in this clause (the  
2 subtrahend) exceed the amount determined in the  
3 preceding clause (the minuend); and

4 (ii) the denominator shall be the average  
5 aggregate, determined on a quarterly basis, of the  
6 international banking facility's loans to banks in  
7 foreign countries, to foreign domiciled borrowers  
8 (except where secured primarily by real estate)  
9 and to foreign governments and other foreign  
10 official institutions, which were recorded in its  
11 financial accounts for the current taxable year.

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

1 amendment or change alters the information used in  
2 determining the floor amount.

3 (3) For taxable years ending on or after December 31,  
4 2008, the business income of a financial organization shall  
5 be apportioned to this State by multiplying such income by  
6 a fraction, the numerator of which is its gross receipts  
7 from sources in this State or otherwise attributable to  
8 this State's marketplace and the denominator of which is  
9 its gross receipts everywhere during the taxable year.  
10 "Gross receipts" for purposes of this subparagraph (3)  
11 means gross income, including net taxable gain on  
12 disposition of assets, including securities and money  
13 market instruments, when derived from transactions and  
14 activities in the regular course of the financial  
15 organization's trade or business. The following examples  
16 are illustrative:

17 (i) Receipts from the lease or rental of real or  
18 tangible personal property are in this State if the  
19 property is located in this State during the rental  
20 period. Receipts from the lease or rental of tangible  
21 personal property that is characteristically moving  
22 property, including, but not limited to, motor  
23 vehicles, rolling stock, aircraft, vessels, or mobile  
24 equipment are from sources in this State to the extent  
25 that the property is used in this State.

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

1 disposition, and other receipts from assets in the  
2 nature of loans that are secured primarily by real  
3 estate or tangible personal property are from sources  
4 in this State if the security is located in this State.

5 (iii) Interest income, commissions, fees, gains on  
6 disposition, and other receipts from consumer loans  
7 that are not secured by real or tangible personal  
8 property are from sources in this State if the debtor  
9 is a resident of this State.

10 (iv) Interest income, commissions, fees, gains on  
11 disposition, and other receipts from commercial loans  
12 and installment obligations that are not secured by  
13 real or tangible personal property are from sources in  
14 this State if the proceeds of the loan are to be  
15 applied in this State. If it cannot be determined where  
16 the funds are to be applied, the income and receipts  
17 are from sources in this State if the office of the  
18 borrower from which the loan was negotiated in the  
19 regular course of business is located in this State. If  
20 the location of this office cannot be determined, the  
21 income and receipts shall be excluded from the  
22 numerator and denominator of the sales factor.

23 (v) Interest income, fees, gains on disposition,  
24 service charges, merchant discount income, and other  
25 receipts from credit card receivables are from sources  
26 in this State if the card charges are regularly billed

1 to a customer in this State.

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

7 (vii) Receipts from the issuance of travelers  
8 checks and money orders are from sources in this State  
9 if the checks and money orders are issued from a  
10 location within this State.

11 (viii) Receipts from investment assets and  
12 activities and trading assets and activities are  
13 included in the receipts factor as follows:

14 (1) Interest, dividends, net gains (but not  
15 less than zero) and other income from investment  
16 assets and activities from trading assets and  
17 activities shall be included in the receipts  
18 factor. Investment assets and activities and  
19 trading assets and activities include but are not  
20 limited to: investment securities; trading account  
21 assets; federal funds; securities purchased and  
22 sold under agreements to resell or repurchase;  
23 options; futures contracts; forward contracts;  
24 notional principal contracts such as swaps;  
25 equities; and foreign currency transactions. With  
26 respect to the investment and trading assets and



1 activities described in subparagraphs (A) and (B)  
2 of this paragraph, the receipts factor shall  
3 include the amounts described in such  
4 subparagraphs.

5 (A) The receipts factor shall include the  
6 amount by which interest from federal funds  
7 sold and securities purchased under resale  
8 agreements exceeds interest expense on federal  
9 funds purchased and securities sold under  
10 repurchase agreements.

11 (B) The receipts factor shall include the  
12 amount by which interest, dividends, gains and  
13 other income from trading assets and  
14 activities, including but not limited to  
15 assets and activities in the matched book, in  
16 the arbitrage book, and foreign currency  
17 transactions, exceed amounts paid in lieu of  
18 interest, amounts paid in lieu of dividends,  
19 and losses from such assets and activities.

20 (2) The numerator of the receipts factor  
21 includes interest, dividends, net gains (but not  
22 less than zero), and other income from investment  
23 assets and activities and from trading assets and  
24 activities described in paragraph (1) of this  
25 subsection that are attributable to this State.

26 (A) The amount of interest, dividends, net

1 gains (but not less than zero), and other  
2 income from investment assets and activities  
3 in the investment account to be attributed to  
4 this State and included in the numerator is  
5 determined by multiplying all such income from  
6 such assets and activities by a fraction, the  
7 numerator of which is the gross income from  
8 such assets and activities which are properly  
9 assigned to a fixed place of business of the  
10 taxpayer within this State and the denominator  
11 of which is the gross income from all such  
12 assets and activities.

13 (B) The amount of interest from federal  
14 funds sold and purchased and from securities  
15 purchased under resale agreements and  
16 securities sold under repurchase agreements  
17 attributable to this State and included in the  
18 numerator is determined by multiplying the  
19 amount described in subparagraph (A) of  
20 paragraph (1) of this subsection from such  
21 funds and such securities by a fraction, the  
22 numerator of which is the gross income from  
23 such funds and such securities which are  
24 properly assigned to a fixed place of business  
25 of the taxpayer within this State and the  
26 denominator of which is the gross income from

1 all such funds and such securities.

2 (C) The amount of interest, dividends,  
3 gains, and other income from trading assets and  
4 activities, including but not limited to  
5 assets and activities in the matched book, in  
6 the arbitrage book and foreign currency  
7 transactions (but excluding amounts described  
8 in subparagraphs (A) or (B) of this paragraph),  
9 attributable to this State and included in the  
10 numerator is determined by multiplying the  
11 amount described in subparagraph (B) of  
12 paragraph (1) of this subsection by a fraction,  
13 the numerator of which is the gross income from  
14 such trading assets and activities which are  
15 properly assigned to a fixed place of business  
16 of the taxpayer within this State and the  
17 denominator of which is the gross income from  
18 all such assets and activities.

19 (D) Properly assigned, for purposes of  
20 this paragraph (2) of this subsection, means  
21 the investment or trading asset or activity is  
22 assigned to the fixed place of business with  
23 which it has a preponderance of substantive  
24 contacts. An investment or trading asset or  
25 activity assigned by the taxpayer to a fixed  
26 place of business without the State shall be

1 presumed to have been properly assigned if:

2 (i) the taxpayer has assigned, in the  
3 regular course of its business, such asset  
4 or activity on its records to a fixed place  
5 of business consistent with federal or  
6 state regulatory requirements;

7 (ii) such assignment on its records is  
8 based upon substantive contacts of the  
9 asset or activity to such fixed place of  
10 business; and

11 (iii) the taxpayer uses such records  
12 reflecting assignment of such assets or  
13 activities for the filing of all state and  
14 local tax returns for which an assignment  
15 of such assets or activities to a fixed  
16 place of business is required.

17 (E) The presumption of proper assignment  
18 of an investment or trading asset or activity  
19 provided in subparagraph (D) of paragraph (2)  
20 of this subsection may be rebutted upon a  
21 showing by the Department, supported by a  
22 preponderance of the evidence, that the  
23 preponderance of substantive contacts  
24 regarding such asset or activity did not occur  
25 at the fixed place of business to which it was  
26 assigned on the taxpayer's records. If the

1 fixed place of business that has a  
2 preponderance of substantive contacts cannot  
3 be determined for an investment or trading  
4 asset or activity to which the presumption in  
5 subparagraph (D) of paragraph (2) of this  
6 subsection does not apply or with respect to  
7 which that presumption has been rebutted, that  
8 asset or activity is properly assigned to the  
9 state in which the taxpayer's commercial  
10 domicile is located. For purposes of this  
11 subparagraph (E), it shall be presumed,  
12 subject to rebuttal, that taxpayer's  
13 commercial domicile is in the state of the  
14 United States or the District of Columbia to  
15 which the greatest number of employees are  
16 regularly connected with the management of the  
17 investment or trading income or out of which  
18 they are working, irrespective of where the  
19 services of such employees are performed, as of  
20 the last day of the taxable year.

21 (4) (Blank).

22 (5) (Blank).

23 (c-1) Federally regulated exchanges. For taxable years  
24 ending on or after December 31, 2012, business income of a  
25 federally regulated exchange shall, at the option of the  
26 federally regulated exchange, be apportioned to this State by

1 multiplying such income by a fraction, the numerator of which  
2 is its business income from sources within this State, and the  
3 denominator of which is its business income from all sources.  
4 For purposes of this subsection, the business income within  
5 this State of a federally regulated exchange is the sum of the  
6 following:

7 (1) Receipts attributable to transactions executed on  
8 a physical trading floor if that physical trading floor is  
9 located in this State.

10 (2) Receipts attributable to all other matching,  
11 execution, or clearing transactions, including without  
12 limitation receipts from the provision of matching,  
13 execution, or clearing services to another entity,  
14 multiplied by (i) for taxable years ending on or after  
15 December 31, 2012 but before December 31, 2013, 63.77%; and  
16 (ii) for taxable years ending on or after December 31,  
17 2013, 27.54%.

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

22 "Federally regulated exchange" means (i) a "registered  
23 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),  
24 or (C), (ii) an "exchange" or "clearing agency" within the  
25 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such  
26 entities regulated under any successor regulatory structure to

1 the foregoing, and (iv) all taxpayers who are members of the  
2 same unitary business group as a federally regulated exchange,  
3 determined without regard to the prohibition in Section  
4 1501(a)(27) of this Act against including in a unitary business  
5 group taxpayers who are ordinarily required to apportion  
6 business income under different subsections of this Section;  
7 provided that this subparagraph (iv) shall apply only if 50% or  
8 more of the business receipts of the unitary business group  
9 determined by application of this subparagraph (iv) for the  
10 taxable year are attributable to the matching, execution, or  
11 clearing of transactions conducted by an entity described in  
12 subparagraph (i), (ii), or (iii) of this paragraph.

13 In no event shall the Illinois apportionment percentage  
14 computed in accordance with this subsection (c-1) for any  
15 taxpayer for any tax year be less than the Illinois  
16 apportionment percentage computed under this subsection (c-1)  
17 for that taxpayer for the first full tax year ending on or  
18 after December 31, 2013 for which this subsection (c-1) applied  
19 to the taxpayer.

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

24 (1) Such business income (other than that derived from  
25 transportation by pipeline) shall be apportioned to this  
26 State by multiplying such income by a fraction, the

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

12 (A) relative railway operating income from total  
13 passenger and total freight service, as reported to the  
14 Interstate Commerce Commission, in the case of  
15 transportation by railroad, and

16 (B) relative gross receipts from passenger and  
17 freight transportation, in case of transportation  
18 other than by railroad.

19 (2) Such business income derived from transportation  
20 by pipeline shall be apportioned to this State by  
21 multiplying such income by a fraction, the numerator of  
22 which is the revenue miles of the person in this State, and  
23 the denominator of which is the revenue miles of the person  
24 everywhere. For the purposes of this paragraph, a revenue  
25 mile is the transportation by pipeline of 1 barrel of oil,  
26 1,000 cubic feet of gas, or of any specified quantity of



1 any other substance, the distance of 1 mile for a  
2 consideration.

3 (3) For taxable years ending on or after December 31,  
4 2008, business income derived from providing  
5 transportation services other than airline services shall  
6 be apportioned to this State by using a fraction, (a) the  
7 numerator of which shall be (i) all receipts from any  
8 movement or shipment of people, goods, mail, oil, gas, or  
9 any other substance (other than by airline) that both  
10 originates and terminates in this State, plus (ii) that  
11 portion of the person's gross receipts from movements or  
12 shipments of people, goods, mail, oil, gas, or any other  
13 substance (other than by airline) that originates in one  
14 state or jurisdiction and terminates in another state or  
15 jurisdiction, that is determined by the ratio that the  
16 miles traveled in this State bears to total miles  
17 everywhere and (b) the denominator of which shall be all  
18 revenue derived from the movement or shipment of people,  
19 goods, mail, oil, gas, or any other substance (other than  
20 by airline). Where a taxpayer is engaged in the  
21 transportation of both passengers and freight, the  
22 fraction above referred to shall first be determined  
23 separately for passenger miles and freight miles. Then an  
24 average of the passenger miles fraction and the freight  
25 miles fraction shall be weighted to reflect the taxpayer's:

26 (A) relative railway operating income from total

1 passenger and total freight service, as reported to the  
2 Surface Transportation Board, in the case of  
3 transportation by railroad; and

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

7 (4) For taxable years ending on or after December 31,  
8 2008, business income derived from furnishing airline  
9 transportation services shall be apportioned to this State  
10 by multiplying such income by a fraction, the numerator of  
11 which is the revenue miles of the person in this State, and  
12 the denominator of which is the revenue miles of the person  
13 everywhere. For purposes of this paragraph, a revenue mile  
14 is the transportation of one passenger or one net ton of  
15 freight the distance of one mile for a consideration. If a  
16 person is engaged in the transportation of both passengers  
17 and freight, the fraction above referred to shall be  
18 determined by means of an average of the passenger revenue  
19 mile fraction and the freight revenue mile fraction,  
20 weighted to reflect the person's relative gross receipts  
21 from passenger and freight airline transportation.

22 (e) Combined apportionment. Where 2 or more persons are  
23 engaged in a unitary business as described in subsection  
24 (a) (27) of Section 1501, a part of which is conducted in this  
25 State by one or more members of the group, the business income  
26 attributable to this State by any such member or members shall

1 be apportioned by means of the combined apportionment method.

2 (f) Alternative allocation. If the allocation and  
3 apportionment provisions of subsections (a) through (e) and of  
4 subsection (h) do not, for taxable years ending before December  
5 31, 2008, fairly represent the extent of a person's business  
6 activity in this State, or, for taxable years ending on or  
7 after December 31, 2008, fairly represent the market for the  
8 person's goods, services, or other sources of business income,  
9 the person may petition for, or the Director may, without a  
10 petition, permit or require, in respect of all or any part of  
11 the person's business activity, if reasonable:

12 (1) Separate accounting;

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

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

17 (4) The employment of any other method to effectuate an  
18 equitable allocation and apportionment of the person's  
19 business income.

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

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

25 (1) for tax years ending on or after December 31, 1998  
26 and before December 31, 1999,  $16 \frac{2}{3}\%$  of the property

1 factor plus 16 2/3% of the payroll factor plus 66 2/3% of  
2 the sales factor;

3 (2) for tax years ending on or after December 31, 1999  
4 and before December 31, 2000, 8 1/3% of the property factor  
5 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales  
6 factor;

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

9 If, in any tax year ending on or after December 31, 1998 and  
10 before December 31, 2000, the denominator of the payroll,  
11 property, or sales factor is zero, the apportionment factor  
12 computed in paragraph (1) or (2) of this subsection for that  
13 year shall be divided by an amount equal to 100% minus the  
14 percentage weight given to each factor whose denominator is  
15 equal to zero.

16 (Source: P.A. 99-642, eff. 7-28-16; 100-201, eff. 8-18-17.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.