



Rep. Tom Cross

**Filed: 7/24/2004**

09300SB2207ham002

LRB093 15831 BDD 52995 a

1 AMENDMENT TO SENATE BILL 2207

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2207, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "ARTICLE 1

6 Section 1-1. Short title. This Act may be cited as the  
7 FY2005 Budget Implementation (Revenue) Act.

8 Section 1-5. Purpose. It is the purpose of this Act to  
9 make changes in State programs that are necessary to implement  
10 the Governor's FY2005 budget recommendations concerning  
11 revenue.

12 ARTICLE 5

13 Section 5-5. The Illinois Insurance Code is amended by  
14 changing Section 416 as follows:

15 (215 ILCS 5/416)

16 Sec. 416. Industrial Commission Operations Fund Surcharge.

17 (a) As of the effective date of this amendatory Act of 2004  
18 ~~the 93rd General Assembly~~, every company licensed or authorized  
19 by the Illinois Department of Insurance and insuring employers'  
20 liabilities arising under the Workers' Compensation Act or the

1 Workers' Occupational Diseases Act shall remit to the Director  
2 a surcharge based upon the annual direct written premium, as  
3 reported under Section 136 of this Act, of the company in the  
4 manner provided in this Section. Such proceeds shall be  
5 deposited into the Industrial Commission Operations Fund as  
6 established in the Workers' Compensation Act. If a company  
7 survives or was formed by a merger, consolidation,  
8 reorganization, or reincorporation, the direct written  
9 premiums of all companies party to the merger, consolidation,  
10 reorganization, or reincorporation shall, for purposes of  
11 determining the amount of the fee imposed by this Section, be  
12 regarded as those of the surviving or new company.

13 (b) (1) Except as provided in subsection (b) (2) of this  
14 Section, beginning on the effective date of this amendatory Act  
15 of 2004 and on July 1 of ~~July 1, 2004~~ and each year thereafter,  
16 the Director shall charge an annual Industrial Commission  
17 Operations Fund Surcharge from every company subject to  
18 subsection (a) of this Section equal to 1.01% ~~1.5%~~ of its  
19 direct written premium for insuring employers' liabilities  
20 arising under the Workers' Compensation Act or Workers'  
21 Occupational Diseases Act as reported in each company's annual  
22 statement filed for the previous year as required by Section  
23 136. The Industrial Commission Operations Fund Surcharge shall  
24 be collected by companies subject to subsection (a) of this  
25 Section as a separately stated surcharge on insured employers  
26 at the rate of 1.01% ~~1.5%~~ of direct written premium. The  
27 Industrial Commission Operations Fund Surcharge shall not be  
28 collected by companies subject to subsection (a) of this  
29 Section from any employer that self-insures its liabilities  
30 arising under the Workers' Compensation Act or Workers'  
31 Occupational Diseases Act, provided that the employer has paid  
32 the Industrial Commission Operations Fund Fee pursuant to  
33 Section 4d of the Workers' Compensation Act. All sums collected  
34 by the Department of Insurance under the provisions of this

1 Section shall be paid promptly after the receipt of the same,  
2 accompanied by a detailed statement thereof, into the  
3 Industrial Commission Operations Fund in the State treasury.

4 (b) (2) The surcharge due pursuant to this amendatory Act of  
5 2004 shall be collected instead of the surcharge due on July 1,  
6 2004 under Public Act 93-32. Payment of the surcharge due under  
7 this amendatory Act of 2004 shall discharge the employer's  
8 obligations due on July 1, 2004. Prior to July 1, 2004, the  
9 Director shall charge and collect the surcharge set forth in  
10 subparagraph (b) (1) of this Section on or before September 1,  
11 2003, December 1, 2003, March 1, 2004 and June 1, 2004. For  
12 purposes of this subsection (b) (2), the company shall remit the  
13 amounts to the Director based on estimated direct premium for  
14 each quarter beginning on July 1, 2003, together with a sworn  
15 statement attesting to the reasonableness of the estimate, and  
16 the estimated amount of direct premium written forming the  
17 bases of the remittance.

18 (c) In addition to the authority specifically granted under  
19 Article XXV of this Code, the Director shall have such  
20 authority to adopt rules or establish forms as may be  
21 reasonably necessary for purposes of enforcing this Section.  
22 The Director shall also have authority to defer, waive, or  
23 abate the surcharge or any penalties imposed by this Section if  
24 in the Director's opinion the company's solvency and ability to  
25 meet its insured obligations would be immediately threatened by  
26 payment of the surcharge due.

27 (d) When a company fails to pay the full amount of any  
28 annual Industrial Commission Operations Fund Surcharge of \$100  
29 or more due under this Section, there shall be added to the  
30 amount due as a penalty the greater of \$1,000 or an amount  
31 equal to 5% of the deficiency for each month or part of a month  
32 that the deficiency remains unpaid.

33 (e) The Department of Insurance may enforce the collection  
34 of any delinquent payment, penalty, or portion thereof by legal

1 action or in any other manner by which the collection of debts  
2 due the State of Illinois may be enforced under the laws of  
3 this State.

4 (f) Whenever it appears to the satisfaction of the Director  
5 that a company has paid pursuant to this Act an Industrial  
6 Commission Operations Fund Surcharge in an amount in excess of  
7 the amount legally collectable from the company, the Director  
8 shall issue a credit memorandum for an amount equal to the  
9 amount of such overpayment. A credit memorandum may be applied  
10 for the 2-year period from the date of issuance, against the  
11 payment of any amount due during that period under the  
12 surcharge imposed by this Section or, subject to reasonable  
13 rule of the Department of Insurance including requirement of  
14 notification, may be assigned to any other company subject to  
15 regulation under this Act. Any application of credit memoranda  
16 after the period provided for in this Section is void.

17 (g) Annually, the Governor may direct a transfer of up to  
18 2% of all moneys collected under this Section to the Insurance  
19 Financial Regulation Fund.

20 (Source: P.A. 93-32, eff. 6-20-03.)

21 Section 5-10. The Workers' Compensation Act is amended by  
22 changing Section 4d as follows:

23 (820 ILCS 305/4d)

24 Sec. 4d. Industrial Commission Operations Fund Fee.

25 (a) As of the effective date of this amendatory Act of the  
26 93rd General Assembly, each employer that self-insures its  
27 liabilities arising under this Act or Workers' Occupational  
28 Diseases Act shall pay a fee measured by the annual actual  
29 wages paid in this State of such an employer in the manner  
30 provided in this Section. Such proceeds shall be deposited in  
31 the Industrial Commission Operations Fund. If an employer  
32 survives or was formed by a merger, consolidation,

1 reorganization, or reincorporation, the actual wages paid in  
2 this State of all employers party to the merger, consolidation,  
3 reorganization, or reincorporation shall, for purposes of  
4 determining the amount of the fee imposed by this Section, be  
5 regarded as those of the surviving or new employer.

6 (b) Beginning on the effective date of this amendatory Act  
7 of 2004 ~~the 93rd General Assembly~~ and on July 1 of each year  
8 thereafter, the Chairman shall charge and collect an annual  
9 Industrial Commission Operations Fund Fee from every employer  
10 subject to subsection (a) of this Section equal to 0.0075%  
11 ~~0.045%~~ of its annual actual wages paid in this State as  
12 reported in each employer's annual self-insurance renewal  
13 filed for the previous year as required by Section 4 of this  
14 Act and Section 4 of the Workers' Occupational Diseases Act.  
15 All sums collected by the Commission under the provisions of  
16 this Section shall be paid promptly after the receipt of the  
17 same, accompanied by a detailed statement thereof, into the  
18 Industrial Commission Operations Fund. The fee due pursuant to  
19 this amendatory Act of 2004 shall be collected instead of the  
20 fee due on July 1, 2004 under Public Act 93-32. Payment of the  
21 fee due under this amendatory Act of 2004 shall discharge the  
22 employer's obligations due on July 1, 2004.

23 (c) In addition to the authority specifically granted under  
24 Section 16, the Chairman shall have such authority to adopt  
25 rules or establish forms as may be reasonably necessary for  
26 purposes of enforcing this Section. The Commission shall have  
27 authority to defer, waive, or abate the fee or any penalties  
28 imposed by this Section if in the Commission's opinion the  
29 employer's solvency and ability to meet its obligations to pay  
30 workers' compensation benefits would be immediately threatened  
31 by payment of the fee due.

32 (d) When an employer fails to pay the full amount of any  
33 annual Industrial Commission Operations Fund Fee of \$100 or  
34 more due under this Section, there shall be added to the amount

1 due as a penalty the greater of \$1,000 or an amount equal to 5%  
2 of the deficiency for each month or part of a month that the  
3 deficiency remains unpaid.

4 (e) The Commission may enforce the collection of any  
5 delinquent payment, penalty or portion thereof by legal action  
6 or in any other manner by which the collection of debts due the  
7 State of Illinois may be enforced under the laws of this State.

8 (f) Whenever it appears to the satisfaction of the Chairman  
9 that an employer has paid pursuant to this Act an Industrial  
10 Commission Operations Fund Fee in an amount in excess of the  
11 amount legally collectable from the employer, the Chairman  
12 shall issue a credit memorandum for an amount equal to the  
13 amount of such overpayment. A credit memorandum may be applied  
14 for the 2-year period from the date of issuance against the  
15 payment of any amount due during that period under the fee  
16 imposed by this Section or, subject to reasonable rule of the  
17 Commission including requirement of notification, may be  
18 assigned to any other employer subject to regulation under this  
19 Act. Any application of credit memoranda after the period  
20 provided for in this Section is void.

21 (Source: P.A. 93-32, eff. 6-20-03.)

22 ARTICLE 10

23 Section 10-5. The Illinois Identification Card Act is  
24 amended by changing Sections 2 and 12 as follows:

25 (15 ILCS 335/2) (from Ch. 124, par. 22)

26 Sec. 2. Administration and powers and duties of the  
27 Administrator. (a) The Secretary of State is the Administrator  
28 of this Act, and he is charged with the duty of observing,  
29 administering and enforcing the provisions of this Act.

30 (b) The Secretary is vested with the powers and duties for  
31 the proper administration of this Act as follows:

1           1. He shall organize the administration of this Act as he  
2 may deem necessary and appoint such subordinate officers,  
3 clerks and other employees as may be necessary.

4           2. From time to time, he may make, amend or rescind rules  
5 and regulations as may be in the public interest to implement  
6 the Act.

7           3. He may prescribe or provide suitable forms as necessary,  
8 including such forms as are necessary to establish that an  
9 applicant for an Illinois Disabled Person Identification Card  
10 is a "disabled person" as defined in Section 4A of this Act.

11           4. He may prepare under the seal of the Secretary of State  
12 certified copies of any records utilized under this Act and any  
13 such certified copy shall be admissible in any proceeding in  
14 any court in like manner as the original thereof.

15           5. Records compiled under this Act shall be maintained for  
16 6 years, but the Secretary may destroy such records with the  
17 prior approval of the State Records Commission.

18           6. He shall examine and determine the genuineness,  
19 regularity and legality of every application filed with him  
20 under this Act, and he may in all cases investigate the same,  
21 require additional information or proof or documentation from  
22 any applicant.

23           7. He shall require the payment of all fees prescribed in  
24 this Act, and all such fees received by him shall be placed in  
25 the Road Fund of the State treasury except as otherwise  
26 provided in Section 12 of this Act.

27 (Source: P.A. 83-1421.)

28 (15 ILCS 335/12) (from Ch. 124, par. 32)

29           Sec. 12. Fees concerning Standard Illinois Identification  
30 Cards. The fees required under this Act for standard Illinois  
31 Identification Cards must accompany any application provided  
32 for in this Act, and the Secretary shall collect such fees as  
33 follows:

1	a. Original card <u>issued on or before</u>	
2	<u>December 31, 2004</u> .....	\$4
3	<u>Original card issued on or after</u>	
4	<u>January 1, 2005</u> .....	<u>\$20</u>
5	b. Renewal card <u>issued on or before</u>	
6	<u>December 31, 2004</u> .....	4
7	<u>Renewal card issued on or after</u>	
8	<u>January 1, 2005</u> .....	<u>20</u>
9	c. Corrected card <u>issued on or before</u>	
10	<u>December 31, 2004</u> .....	2
11	<u>Corrected card issued on or after</u>	
12	<u>January 1, 2005</u> .....	<u>10</u>
13	d. Duplicate card <u>issued on or before</u>	
14	<u>December 31, 2004</u> .....	4
15	<u>Duplicate card issued on or after</u>	
16	<u>January 1, 2005</u> .....	<u>20</u>
17	e. Certified copy with seal .....	5
18	f. Search .....	2
19	g. Applicant 65 years of age or over.....	No Fee
20	h. Disabled applicant .....	No Fee
21	i. Individual living in Veterans	
22	Home or Hospital .....	No Fee

23 All fees collected under this Act shall be paid into the  
24 Road Fund of the State treasury, except that the following  
25 amounts shall be paid into the General Revenue Fund: (i) \$16 of  
26 the \$20 fee for an original, renewal, or duplicate Illinois  
27 Identification Card issued on or after January 1, 2005; and  
28 (ii) \$8 of the \$10 fee for a corrected Illinois Identification  
29 Card issued on or after January 1, 2005.

30 Any disabled person making an application for a standard  
31 Illinois Identification Card for no fee must, along with the  
32 application, submit an affirmation by the applicant on a form  
33 to be provided by the Secretary of State, attesting that such  
34 person is a disabled person as defined in Section 4A of this



1 Act.

2 An individual, who resides in a veterans home or veterans  
3 hospital operated by the state or federal government, who makes  
4 an application for an Illinois Identification Card to be issued  
5 at no fee, must submit, along with the application, an  
6 affirmation by the applicant on a form provided by the  
7 Secretary of State, that such person resides in a veterans home  
8 or veterans hospital operated by the state or federal  
9 government.

10 (Source: P.A. 83-1528.)

11 Section 10-10. The Illinois Lottery Law is amended by  
12 changing Section 10.2 as follows:

13 (20 ILCS 1605/10.2) (from Ch. 120, par. 1160.2)

14 Sec. 10.2. Application and other fees. Each application  
15 for a new lottery license must be accompanied by a one-time  
16 application fee of \$50; the Department, however, may waive the  
17 fee for licenses of limited duration as provided by Department  
18 rule. Each application for renewal of a lottery license must be  
19 accompanied by a renewal fee of \$25. Each lottery licensee  
20 granted on-line status pursuant to the Department's rules must  
21 pay a fee of \$10 per week as partial reimbursement for  
22 telecommunications charges incurred by the Department in  
23 providing access to the lottery's on-line gaming system. The  
24 Department, by rule, may increase or decrease the amount of  
25 these fees. The Department may charge an application fee except  
26 that such fee shall not exceed \$10.00 per annum.

27 (Source: P.A. 81-477.)

28 ARTICLE 15

29 Section 15-1. Short title. This Article may be cited as the  
30 Watercraft Use Tax Law, and references in this Article to "this

1 Law" mean this Article.

2 Section 15-5. Definitions. For the purposes of this Law:

3 "Department" means the Department of Revenue.

4 "Purchase price" means the reasonable consideration paid  
5 for a watercraft whether received in money or otherwise,  
6 including, but not limited to, cash, credits, property, and  
7 services, and including the value of any motor sold with, or in  
8 conjunction with, the watercraft. Except in the case of  
9 transfers between immediate family members, reasonable  
10 consideration ordinarily means the fair market value on the  
11 date the watercraft or the share of the watercraft was acquired  
12 or the date the watercraft was brought into this State,  
13 whichever is later, unless the taxpayer can demonstrate that a  
14 different value is reasonable. In the case of transfers between  
15 immediate family members, reasonable consideration ordinarily  
16 means the consideration actually paid, unless it appears from  
17 the facts and circumstances that the primary motivation of the  
18 transfer was the avoidance of tax.

19 "Watercraft" means:

20 (1) Class 2, Class 3, and Class 4 watercraft, as  
21 defined in Section 3-2 of the Boat Registration and Safety  
22 Act; or

23 (2) personal watercraft, as defined in Section 1-2 of  
24 the Boat Registration and Safety Act.

25 Section 15-10. Tax imposed. A tax is hereby imposed on the  
26 privilege of using, in this State, any watercraft acquired by  
27 gift, transfer, or purchase after September 1, 2004. This tax  
28 does not apply if: (i) the use of the watercraft is otherwise  
29 taxed under the Use Tax Act; (ii) the watercraft is bought and  
30 used by a governmental agency or a society, association,  
31 foundation, or institution organized and operated exclusively  
32 for charitable, religious, or educational purposes and that

1 entity has been issued an exemption identification number under  
2 Section 1g of the Retailers' Occupation Tax Act; (iii) the use  
3 of the watercraft is not subject to the Use Tax Act by reason  
4 of subsection (a), (b), (c), (d), or (e) of Section 3-55 of  
5 that Act dealing with the prevention of actual or likely  
6 multi-state taxation; (iv) the transfer is a gift to a  
7 beneficiary in the administration of an estate and the  
8 beneficiary is a surviving spouse; or (v) the watercraft is  
9 exempted from the numbering provisions of Section 3-12 of the  
10 Boat Registration and Safety Act. However, the exemption from  
11 tax provided by item (v) shall not apply to a watercraft  
12 exempted under paragraphs A, B, C, F, and G of Section 3-12 of  
13 the Boat Registration and Safety Act if such watercraft are  
14 used upon the waters of this State for more than 30 days in any  
15 calendar year.

16 Section 15-15. Rate of tax.

17 The rate of tax is 6.25% of the purchase price for each  
18 purchase of watercraft that is subject to tax under this Law.  
19 When an ownership share of a watercraft is acquired, the tax is  
20 imposed on the purchase price of that share. All owners are  
21 jointly and severally liable for any tax due as a result of the  
22 purchase, gift, or transfer of an ownership share of the  
23 watercraft.

24 Section 15-20. Returns.

25 (a) The purchaser, transferee, or donee shall file with the  
26 Department a return signed by the purchaser, transferee, or  
27 donee on a form prescribed by the Department. The return shall  
28 contain a verification in substantially the following form and  
29 such other information as the Department may reasonably  
30 require:

31 VERIFICATION

32 I declare that I have examined this return and, to the best

1 of my knowledge, it is true, correct, and complete. I  
2 understand that the penalty for willfully filing a false  
3 return is a fine not to exceed \$1,000 or imprisonment in a  
4 penal institution other than the penitentiary not to exceed  
5 one year, or both a fine and imprisonment.

6 (b) The return and payment from the purchaser, transferee,  
7 or donee shall be submitted to the Department within 30 days  
8 after the date of purchase, donation, or other transfer or the  
9 date the watercraft is brought into this State, whichever is  
10 later. Payment of tax is a condition to securing certificate of  
11 title for the watercraft from the Department of Natural  
12 Resources. When a purchaser, transferee, or donee pays the tax  
13 imposed by Section 5-10 of this Law, the Department (upon  
14 request therefor from the purchaser, transferee, or donee)  
15 shall issue an appropriate receipt to the purchaser,  
16 transferee, or donee showing that he or she has paid the tax to  
17 the Department. The receipt shall be sufficient to relieve the  
18 purchaser, transferee, or donee from further liability for the  
19 tax to which the receipt may refer.

20 Section 15-25. Filing false or incomplete return. Any  
21 person required to file a return under this Law who willfully  
22 files a false or incomplete return is guilty of a Class A  
23 misdemeanor.

24 Section 15-30. Determining purchase price. For the purpose  
25 of assisting in determining the validity of the purchase price  
26 reported on returns filed with the Department, the Department  
27 may furnish the following information to persons with whom the  
28 Department has contracted for service related to making that  
29 determination: (i) the purchase price stated on the return;  
30 (ii) the watercraft identification number; (iii) the year, the  
31 make, and the model name or number of the watercraft; (iv) the  
32 purchase date; and (v) the hours of operation.

1           Section 15-35. Powers of Department. The Department has  
2 full power to: (i) administer and enforce this Law; (ii)  
3 collect all taxes, penalties, and interest due under this Law;  
4 (iii) dispose of taxes, penalties, and interest so collected in  
5 the manner set forth in this Law; and (iv) determine all rights  
6 to credit memoranda or refunds arising on account of the  
7 erroneous payment of tax, penalty, or interest under this Law.  
8 In the administration of, and compliance with, this Law, the  
9 Department and persons who are subject to this Law have the  
10 same rights, remedies, privileges, immunities, powers, and  
11 duties, and are subject to the same conditions, restrictions,  
12 limitations, penalties, and definitions of terms, and employ  
13 the same modes of procedure, as are prescribed in the Use Tax  
14 Act (except for the provisions of Section 3-70), that are not  
15 inconsistent with this Law, as fully as if the provisions of  
16 the Use Tax Act were set forth in this Law. In addition to any  
17 other penalties imposed under law, any person convicted of  
18 violating the provisions of this Law shall be assessed a fine  
19 of \$1,000.

20           Section 15-40. Payments to State and Local Sales Tax Reform  
21 Fund and General Revenue Fund. The Department shall each month,  
22 upon collecting any taxes as provided in this Law, pay 20% of  
23 the money collected into the State and Local Sales Tax Reform  
24 Fund, a special fund in the State treasury, and 80% into the  
25 General Revenue Fund.

26           Section 15-45. Rules. The Department has the authority to  
27 adopt such rules as are reasonable and necessary to implement  
28 the provisions of this Law.

29           Section 15-990. The Retailers' Occupation Tax Act is  
30 amended by changing Section 1c as follows:

1 (35 ILCS 120/1c) (from Ch. 120, par. 440c)

2 Sec. 1c. A person who is engaged in the business of leasing  
3 or renting motor vehicles or, beginning July 1, 2003, aircraft  
4 or, beginning September 1, 2004, watercraft to others and who,  
5 in connection with such business sells any used motor vehicle,  
6 ~~or~~ aircraft, or watercraft to a purchaser for his use and not  
7 for the purpose of resale, is a retailer engaged in the  
8 business of selling tangible personal property at retail under  
9 this Act to the extent of the value of the motor vehicle, ~~or~~  
10 aircraft, or watercraft sold. For the purpose of this Section  
11 "motor vehicle" has the meaning prescribed in Section 1-157 of  
12 the Illinois Vehicle Code, as now or hereafter amended. For the  
13 purpose of this Section "aircraft" has the meaning prescribed  
14 in Section 3 of the Illinois Aeronautics Act. For the purpose  
15 of this Section, "watercraft" has the meaning prescribed in  
16 Section 5-5 of the Watercraft Use Tax Law. (Nothing provided  
17 herein shall affect liability incurred under this Act because  
18 of the sale at retail of such motor vehicles, ~~or~~ aircraft, or  
19 watercraft to a lessor.)

20 (Source: P.A. 93-24, eff. 6-20-03.)

21 Section 15-995. The Boat Registration and Safety Act is  
22 amended by changing Section 3A-5 as follows:

23 (625 ILCS 45/3A-5) (from Ch. 95 1/2, par. 313A-5)

24 Sec. 3A-5. Certificate of title - Issuance - Records.

25 (a) The Department of Natural Resources shall file each  
26 application received and, when satisfied as to its genuineness  
27 and regularity, and that no tax imposed by the "Use Tax Act" or  
28 the Watercraft Use Tax Law is owed as evidenced by the receipt  
29 for payment or determination of exemption from the Department  
30 of Revenue provided for in Section 3A-3 of this Article, and  
31 that the applicant is entitled to the issuance of a certificate

1 of title, shall issue a certificate of title.

2 (b) The Department of Natural Resources shall maintain a  
3 record of all certificates of title issued under a distinctive  
4 title number assigned to the watercraft and, in the discretion  
5 of the Department, in any other method determined.

6 (Source: P.A. 89-445, eff. 2-7-96.)

7 ARTICLE 20

8 Section 20-10. The Use Tax Act is amended by changing  
9 Sections 3-5 and 3-85 as follows:

10 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

11 Sec. 3-5. Exemptions. Use of the following tangible  
12 personal property is exempt from the tax imposed by this Act:

13 (1) Personal property purchased from a corporation,  
14 society, association, foundation, institution, or  
15 organization, other than a limited liability company, that is  
16 organized and operated as a not-for-profit service enterprise  
17 for the benefit of persons 65 years of age or older if the  
18 personal property was not purchased by the enterprise for the  
19 purpose of resale by the enterprise.

20 (2) Personal property purchased by a not-for-profit  
21 Illinois county fair association for use in conducting,  
22 operating, or promoting the county fair.

23 (3) Personal property purchased by a not-for-profit arts or  
24 cultural organization that establishes, by proof required by  
25 the Department by rule, that it has received an exemption under  
26 Section 501(c)(3) of the Internal Revenue Code and that is  
27 organized and operated primarily for the presentation or  
28 support of arts or cultural programming, activities, or  
29 services. These organizations include, but are not limited to,  
30 music and dramatic arts organizations such as symphony  
31 orchestras and theatrical groups, arts and cultural service

1 organizations, local arts councils, visual arts organizations,  
2 and media arts organizations. On and after the effective date  
3 of this amendatory Act of the 92nd General Assembly, however,  
4 an entity otherwise eligible for this exemption shall not make  
5 tax-free purchases unless it has an active identification  
6 number issued by the Department.

7 (4) Personal property purchased by a governmental body, by  
8 a corporation, society, association, foundation, or  
9 institution organized and operated exclusively for charitable,  
10 religious, or educational purposes, or by a not-for-profit  
11 corporation, society, association, foundation, institution, or  
12 organization that has no compensated officers or employees and  
13 that is organized and operated primarily for the recreation of  
14 persons 55 years of age or older. A limited liability company  
15 may qualify for the exemption under this paragraph only if the  
16 limited liability company is organized and operated  
17 exclusively for educational purposes. On and after July 1,  
18 1987, however, no entity otherwise eligible for this exemption  
19 shall make tax-free purchases unless it has an active exemption  
20 identification number issued by the Department.

21 (5) Until July 1, 2003, a passenger car that is a  
22 replacement vehicle to the extent that the purchase price of  
23 the car is subject to the Replacement Vehicle Tax.

24 (6) Until July 1, 2003 and beginning again on September 1,  
25 2004, graphic arts machinery and equipment, including repair  
26 and replacement parts, both new and used, and including that  
27 manufactured on special order, certified by the purchaser to be  
28 used primarily for graphic arts production, and including  
29 machinery and equipment purchased for lease. Equipment  
30 includes chemicals or chemicals acting as catalysts but only if  
31 the chemicals or chemicals acting as catalysts effect a direct  
32 and immediate change upon a graphic arts product.

33 (7) Farm chemicals.

34 (8) Legal tender, currency, medallions, or gold or silver



1 coinage issued by the State of Illinois, the government of the  
2 United States of America, or the government of any foreign  
3 country, and bullion.

4 (9) Personal property purchased from a teacher-sponsored  
5 student organization affiliated with an elementary or  
6 secondary school located in Illinois.

7 (10) A motor vehicle of the first division, a motor vehicle  
8 of the second division that is a self-contained motor vehicle  
9 designed or permanently converted to provide living quarters  
10 for recreational, camping, or travel use, with direct walk  
11 through to the living quarters from the driver's seat, or a  
12 motor vehicle of the second division that is of the van  
13 configuration designed for the transportation of not less than  
14 7 nor more than 16 passengers, as defined in Section 1-146 of  
15 the Illinois Vehicle Code, that is used for automobile renting,  
16 as defined in the Automobile Renting Occupation and Use Tax  
17 Act.

18 (11) Farm machinery and equipment, both new and used,  
19 including that manufactured on special order, certified by the  
20 purchaser to be used primarily for production agriculture or  
21 State or federal agricultural programs, including individual  
22 replacement parts for the machinery and equipment, including  
23 machinery and equipment purchased for lease, and including  
24 implements of husbandry defined in Section 1-130 of the  
25 Illinois Vehicle Code, farm machinery and agricultural  
26 chemical and fertilizer spreaders, and nurse wagons required to  
27 be registered under Section 3-809 of the Illinois Vehicle Code,  
28 but excluding other motor vehicles required to be registered  
29 under the Illinois Vehicle Code. Horticultural polyhouses or  
30 hoop houses used for propagating, growing, or overwintering  
31 plants shall be considered farm machinery and equipment under  
32 this item (11). Agricultural chemical tender tanks and dry  
33 boxes shall include units sold separately from a motor vehicle  
34 required to be licensed and units sold mounted on a motor

1 vehicle required to be licensed if the selling price of the  
2 tender is separately stated.

3 Farm machinery and equipment shall include precision  
4 farming equipment that is installed or purchased to be  
5 installed on farm machinery and equipment including, but not  
6 limited to, tractors, harvesters, sprayers, planters, seeders,  
7 or spreaders. Precision farming equipment includes, but is not  
8 limited to, soil testing sensors, computers, monitors,  
9 software, global positioning and mapping systems, and other  
10 such equipment.

11 Farm machinery and equipment also includes computers,  
12 sensors, software, and related equipment used primarily in the  
13 computer-assisted operation of production agriculture  
14 facilities, equipment, and activities such as, but not limited  
15 to, the collection, monitoring, and correlation of animal and  
16 crop data for the purpose of formulating animal diets and  
17 agricultural chemicals. This item (11) is exempt from the  
18 provisions of Section 3-90.

19 (12) Fuel and petroleum products sold to or used by an air  
20 common carrier, certified by the carrier to be used for  
21 consumption, shipment, or storage in the conduct of its  
22 business as an air common carrier, for a flight destined for or  
23 returning from a location or locations outside the United  
24 States without regard to previous or subsequent domestic  
25 stopovers.

26 (13) Proceeds of mandatory service charges separately  
27 stated on customers' bills for the purchase and consumption of  
28 food and beverages purchased at retail from a retailer, to the  
29 extent that the proceeds of the service charge are in fact  
30 turned over as tips or as a substitute for tips to the  
31 employees who participate directly in preparing, serving,  
32 hosting or cleaning up the food or beverage function with  
33 respect to which the service charge is imposed.

34 (14) Until July 1, 2003, oil field exploration, drilling,

1 and production equipment, including (i) rigs and parts of rigs,  
2 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
3 tubular goods, including casing and drill strings, (iii) pumps  
4 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
5 individual replacement part for oil field exploration,  
6 drilling, and production equipment, and (vi) machinery and  
7 equipment purchased for lease; but excluding motor vehicles  
8 required to be registered under the Illinois Vehicle Code.

9 (15) Photoprocessing machinery and equipment, including  
10 repair and replacement parts, both new and used, including that  
11 manufactured on special order, certified by the purchaser to be  
12 used primarily for photoprocessing, and including  
13 photoprocessing machinery and equipment purchased for lease.

14 (16) Until July 1, 2003, coal exploration, mining,  
15 offhighway hauling, processing, maintenance, and reclamation  
16 equipment, including replacement parts and equipment, and  
17 including equipment purchased for lease, but excluding motor  
18 vehicles required to be registered under the Illinois Vehicle  
19 Code.

20 (17) Until July 1, 2003, distillation machinery and  
21 equipment, sold as a unit or kit, assembled or installed by the  
22 retailer, certified by the user to be used only for the  
23 production of ethyl alcohol that will be used for consumption  
24 as motor fuel or as a component of motor fuel for the personal  
25 use of the user, and not subject to sale or resale.

26 (18) Manufacturing and assembling machinery and equipment  
27 used primarily in the process of manufacturing or assembling  
28 tangible personal property for wholesale or retail sale or  
29 lease, whether that sale or lease is made directly by the  
30 manufacturer or by some other person, whether the materials  
31 used in the process are owned by the manufacturer or some other  
32 person, or whether that sale or lease is made apart from or as  
33 an incident to the seller's engaging in the service occupation  
34 of producing machines, tools, dies, jigs, patterns, gauges, or

1 other similar items of no commercial value on special order for  
2 a particular purchaser.

3 (19) Personal property delivered to a purchaser or  
4 purchaser's donee inside Illinois when the purchase order for  
5 that personal property was received by a florist located  
6 outside Illinois who has a florist located inside Illinois  
7 deliver the personal property.

8 (20) Semen used for artificial insemination of livestock  
9 for direct agricultural production.

10 (21) Horses, or interests in horses, registered with and  
11 meeting the requirements of any of the Arabian Horse Club  
12 Registry of America, Appaloosa Horse Club, American Quarter  
13 Horse Association, United States Trotting Association, or  
14 Jockey Club, as appropriate, used for purposes of breeding or  
15 racing for prizes.

16 (22) Computers and communications equipment utilized for  
17 any hospital purpose and equipment used in the diagnosis,  
18 analysis, or treatment of hospital patients purchased by a  
19 lessor who leases the equipment, under a lease of one year or  
20 longer executed or in effect at the time the lessor would  
21 otherwise be subject to the tax imposed by this Act, to a  
22 hospital that has been issued an active tax exemption  
23 identification number by the Department under Section 1g of the  
24 Retailers' Occupation Tax Act. If the equipment is leased in a  
25 manner that does not qualify for this exemption or is used in  
26 any other non-exempt manner, the lessor shall be liable for the  
27 tax imposed under this Act or the Service Use Tax Act, as the  
28 case may be, based on the fair market value of the property at  
29 the time the non-qualifying use occurs. No lessor shall collect  
30 or attempt to collect an amount (however designated) that  
31 purports to reimburse that lessor for the tax imposed by this  
32 Act or the Service Use Tax Act, as the case may be, if the tax  
33 has not been paid by the lessor. If a lessor improperly  
34 collects any such amount from the lessee, the lessee shall have

1 a legal right to claim a refund of that amount from the lessor.  
2 If, however, that amount is not refunded to the lessee for any  
3 reason, the lessor is liable to pay that amount to the  
4 Department.

5 (23) Personal property purchased by a lessor who leases the  
6 property, under a lease of one year or longer executed or in  
7 effect at the time the lessor would otherwise be subject to the  
8 tax imposed by this Act, to a governmental body that has been  
9 issued an active sales tax exemption identification number by  
10 the Department under Section 1g of the Retailers' Occupation  
11 Tax Act. If the property is leased in a manner that does not  
12 qualify for this exemption or used in any other non-exempt  
13 manner, the lessor shall be liable for the tax imposed under  
14 this Act or the Service Use Tax Act, as the case may be, based  
15 on the fair market value of the property at the time the  
16 non-qualifying use occurs. No lessor shall collect or attempt  
17 to collect an amount (however designated) that purports to  
18 reimburse that lessor for the tax imposed by this Act or the  
19 Service Use Tax Act, as the case may be, if the tax has not been  
20 paid by the lessor. If a lessor improperly collects any such  
21 amount from the lessee, the lessee shall have a legal right to  
22 claim a refund of that amount from the lessor. If, however,  
23 that amount is not refunded to the lessee for any reason, the  
24 lessor is liable to pay that amount to the Department.

25 (24) Beginning with taxable years ending on or after  
26 December 31, 1995 and ending with taxable years ending on or  
27 before December 31, 2004, personal property that is donated for  
28 disaster relief to be used in a State or federally declared  
29 disaster area in Illinois or bordering Illinois by a  
30 manufacturer or retailer that is registered in this State to a  
31 corporation, society, association, foundation, or institution  
32 that has been issued a sales tax exemption identification  
33 number by the Department that assists victims of the disaster  
34 who reside within the declared disaster area.

1           (25) Beginning with taxable years ending on or after  
2 December 31, 1995 and ending with taxable years ending on or  
3 before December 31, 2004, personal property that is used in the  
4 performance of infrastructure repairs in this State, including  
5 but not limited to municipal roads and streets, access roads,  
6 bridges, sidewalks, waste disposal systems, water and sewer  
7 line extensions, water distribution and purification  
8 facilities, storm water drainage and retention facilities, and  
9 sewage treatment facilities, resulting from a State or  
10 federally declared disaster in Illinois or bordering Illinois  
11 when such repairs are initiated on facilities located in the  
12 declared disaster area within 6 months after the disaster.

13           (26) Beginning July 1, 1999, game or game birds purchased  
14 at a "game breeding and hunting preserve area" or an "exotic  
15 game hunting area" as those terms are used in the Wildlife Code  
16 or at a hunting enclosure approved through rules adopted by the  
17 Department of Natural Resources. This paragraph is exempt from  
18 the provisions of Section 3-90.

19           (27) A motor vehicle, as that term is defined in Section  
20 1-146 of the Illinois Vehicle Code, that is donated to a  
21 corporation, limited liability company, society, association,  
22 foundation, or institution that is determined by the Department  
23 to be organized and operated exclusively for educational  
24 purposes. For purposes of this exemption, "a corporation,  
25 limited liability company, society, association, foundation,  
26 or institution organized and operated exclusively for  
27 educational purposes" means all tax-supported public schools,  
28 private schools that offer systematic instruction in useful  
29 branches of learning by methods common to public schools and  
30 that compare favorably in their scope and intensity with the  
31 course of study presented in tax-supported schools, and  
32 vocational or technical schools or institutes organized and  
33 operated exclusively to provide a course of study of not less  
34 than 6 weeks duration and designed to prepare individuals to

1 follow a trade or to pursue a manual, technical, mechanical,  
2 industrial, business, or commercial occupation.

3 (28) Beginning January 1, 2000, personal property,  
4 including food, purchased through fundraising events for the  
5 benefit of a public or private elementary or secondary school,  
6 a group of those schools, or one or more school districts if  
7 the events are sponsored by an entity recognized by the school  
8 district that consists primarily of volunteers and includes  
9 parents and teachers of the school children. This paragraph  
10 does not apply to fundraising events (i) for the benefit of  
11 private home instruction or (ii) for which the fundraising  
12 entity purchases the personal property sold at the events from  
13 another individual or entity that sold the property for the  
14 purpose of resale by the fundraising entity and that profits  
15 from the sale to the fundraising entity. This paragraph is  
16 exempt from the provisions of Section 3-90.

17 (29) Beginning January 1, 2000 and through December 31,  
18 2001, new or used automatic vending machines that prepare and  
19 serve hot food and beverages, including coffee, soup, and other  
20 items, and replacement parts for these machines. Beginning  
21 January 1, 2002 and through June 30, 2003, machines and parts  
22 for machines used in commercial, coin-operated amusement and  
23 vending business if a use or occupation tax is paid on the  
24 gross receipts derived from the use of the commercial,  
25 coin-operated amusement and vending machines. This paragraph  
26 is exempt from the provisions of Section 3-90.

27 (30) Food for human consumption that is to be consumed off  
28 the premises where it is sold (other than alcoholic beverages,  
29 soft drinks, and food that has been prepared for immediate  
30 consumption) and prescription and nonprescription medicines,  
31 drugs, medical appliances, and insulin, urine testing  
32 materials, syringes, and needles used by diabetics, for human  
33 use, when purchased for use by a person receiving medical  
34 assistance under Article 5 of the Illinois Public Aid Code who

1 resides in a licensed long-term care facility, as defined in  
2 the Nursing Home Care Act.

3 (31) Beginning on the effective date of this amendatory Act  
4 of the 92nd General Assembly, computers and communications  
5 equipment utilized for any hospital purpose and equipment used  
6 in the diagnosis, analysis, or treatment of hospital patients  
7 purchased by a lessor who leases the equipment, under a lease  
8 of one year or longer executed or in effect at the time the  
9 lessor would otherwise be subject to the tax imposed by this  
10 Act, to a hospital that has been issued an active tax exemption  
11 identification number by the Department under Section 1g of the  
12 Retailers' Occupation Tax Act. If the equipment is leased in a  
13 manner that does not qualify for this exemption or is used in  
14 any other nonexempt manner, the lessor shall be liable for the  
15 tax imposed under this Act or the Service Use Tax Act, as the  
16 case may be, based on the fair market value of the property at  
17 the time the nonqualifying use occurs. No lessor shall collect  
18 or attempt to collect an amount (however designated) that  
19 purports to reimburse that lessor for the tax imposed by this  
20 Act or the Service Use Tax Act, as the case may be, if the tax  
21 has not been paid by the lessor. If a lessor improperly  
22 collects any such amount from the lessee, the lessee shall have  
23 a legal right to claim a refund of that amount from the lessor.  
24 If, however, that amount is not refunded to the lessee for any  
25 reason, the lessor is liable to pay that amount to the  
26 Department. This paragraph is exempt from the provisions of  
27 Section 3-90.

28 (32) Beginning on the effective date of this amendatory Act  
29 of the 92nd General Assembly, personal property purchased by a  
30 lessor who leases the property, under a lease of one year or  
31 longer executed or in effect at the time the lessor would  
32 otherwise be subject to the tax imposed by this Act, to a  
33 governmental body that has been issued an active sales tax  
34 exemption identification number by the Department under



1 Section 1g of the Retailers' Occupation Tax Act. If the  
2 property is leased in a manner that does not qualify for this  
3 exemption or used in any other nonexempt manner, the lessor  
4 shall be liable for the tax imposed under this Act or the  
5 Service Use Tax Act, as the case may be, based on the fair  
6 market value of the property at the time the nonqualifying use  
7 occurs. No lessor shall collect or attempt to collect an amount  
8 (however designated) that purports to reimburse that lessor for  
9 the tax imposed by this Act or the Service Use Tax Act, as the  
10 case may be, if the tax has not been paid by the lessor. If a  
11 lessor improperly collects any such amount from the lessee, the  
12 lessee shall have a legal right to claim a refund of that  
13 amount from the lessor. If, however, that amount is not  
14 refunded to the lessee for any reason, the lessor is liable to  
15 pay that amount to the Department. This paragraph is exempt  
16 from the provisions of Section 3-90.

17 (33) On and after July 1, 2003, the use in this State of  
18 motor vehicles of the second division with a gross vehicle  
19 weight in excess of 8,000 pounds and that are subject to the  
20 commercial distribution fee imposed under Section 3-815.1 of  
21 the Illinois Vehicle Code. This exemption applies to repair and  
22 replacement parts added after the initial purchase of such a  
23 motor vehicle if that motor vehicle is used in a manner that  
24 would qualify for the rolling stock exemption otherwise  
25 provided for in this Act.

26 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,  
27 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;  
28 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

29 (35 ILCS 105/3-85)

30 Sec. 3-85. Manufacturer's Purchase Credit. For purchases  
31 of machinery and equipment made on and after January 1, 1995  
32 ~~and~~ through June 30, 2003, and on and after September 1, 2004,  
33 a purchaser of manufacturing machinery and equipment that

1 qualifies for the exemption provided by paragraph (18) of  
2 Section 3-5 of this Act earns a credit in an amount equal to a  
3 fixed percentage of the tax which would have been incurred  
4 under this Act on those purchases. For purchases of graphic  
5 arts machinery and equipment made on or after July 1, 1996 and  
6 through June 30, 2003, and on and after September 1, 2004, a  
7 purchaser of graphic arts machinery and equipment that  
8 qualifies for the exemption provided by paragraph (6) of  
9 Section 3-5 of this Act earns a credit in an amount equal to a  
10 fixed percentage of the tax that would have been incurred under  
11 this Act on those purchases. The credit earned for purchases of  
12 manufacturing machinery and equipment or graphic arts  
13 machinery and equipment shall be referred to as the  
14 Manufacturer's Purchase Credit. A graphic arts producer is a  
15 person engaged in graphic arts production as defined in Section  
16 2-30 of the Retailers' Occupation Tax Act. Beginning July 1,  
17 1996, all references in this Section to manufacturers or  
18 manufacturing shall also be deemed to refer to graphic arts  
19 producers or graphic arts production.

20 The amount of credit shall be a percentage of the tax that  
21 would have been incurred on the purchase of manufacturing  
22 machinery and equipment or graphic arts machinery and equipment  
23 if the exemptions provided by paragraph (6) or paragraph (18)  
24 of Section 3-5 of this Act had not been applicable. The  
25 percentage shall be as follows:

26 (1) 15% for purchases made on or before June 30, 1995.

27 (2) 25% for purchases made after June 30, 1995, and on  
28 or before June 30, 1996.

29 (3) 40% for purchases made after June 30, 1996, and on  
30 or before June 30, 1997.

31 (4) 50% for purchases made on or after July 1, 1997.

32 (a) Manufacturer's Purchase Credit earned prior to July 1,  
33 2003. This subsection (a) applies to Manufacturer's Purchase  
34 Credit earned prior to July 1, 2003. A purchaser of production

1 related tangible personal property desiring to use the  
2 Manufacturer's Purchase Credit shall certify to the seller  
3 prior to October 1, 2003 that the purchaser is satisfying all  
4 or part of the liability under the Use Tax Act or the Service  
5 Use Tax Act that is due on the purchase of the production  
6 related tangible personal property by use of Manufacturer's  
7 Purchase Credit. The Manufacturer's Purchase Credit  
8 certification must be dated and shall include the name and  
9 address of the purchaser, the purchaser's registration number,  
10 if registered, the credit being applied, and a statement that  
11 the State Use Tax or Service Use Tax liability is being  
12 satisfied with the manufacturer's or graphic arts producer's  
13 accumulated purchase credit. Certification may be incorporated  
14 into the manufacturer's or graphic arts producer's purchase  
15 order. Manufacturer's Purchase Credit certification provided  
16 by the manufacturer or graphic arts producer prior to October  
17 1, 2003 may be used to satisfy the retailer's or serviceman's  
18 liability under the Retailers' Occupation Tax Act or Service  
19 Occupation Tax Act for the credit claimed, not to exceed 6.25%  
20 of the receipts subject to tax from a qualifying purchase, but  
21 only if the retailer or serviceman reports the Manufacturer's  
22 Purchase Credit claimed as required by the Department. A  
23 Manufacturer's Purchase Credit reported on any original or  
24 amended return filed under this Act after October 20, 2003  
25 shall be disallowed. The Manufacturer's Purchase Credit earned  
26 by purchase of exempt manufacturing machinery and equipment or  
27 graphic arts machinery and equipment is a non-transferable  
28 credit. A manufacturer or graphic arts producer that enters  
29 into a contract involving the installation of tangible personal  
30 property into real estate within a manufacturing or graphic  
31 arts production facility may, prior to October 1, 2003,  
32 authorize a construction contractor to utilize credit  
33 accumulated by the manufacturer or graphic arts producer to  
34 purchase the tangible personal property. A manufacturer or

1 graphic arts producer intending to use accumulated credit to  
2 purchase such tangible personal property shall execute a  
3 written contract authorizing the contractor to utilize a  
4 specified dollar amount of credit. The contractor shall  
5 furnish, prior to October 1, 2003, the supplier with the  
6 manufacturer's or graphic arts producer's name, registration  
7 or resale number, and a statement that a specific amount of the  
8 Use Tax or Service Use Tax liability, not to exceed 6.25% of  
9 the selling price, is being satisfied with the credit. The  
10 manufacturer or graphic arts producer shall remain liable to  
11 timely report all information required by the annual Report of  
12 Manufacturer's Purchase Credit Used for all credit utilized by  
13 a construction contractor.

14 No Manufacturer's Purchase Credit earned prior to July 1,  
15 2003 may be used after October 1, 2003. The Manufacturer's  
16 Purchase Credit may be used to satisfy liability under the Use  
17 Tax Act or the Service Use Tax Act due on the purchase of  
18 production related tangible personal property (including  
19 purchases by a manufacturer, by a graphic arts producer, or by  
20 a lessor who rents or leases the use of the property to a  
21 manufacturer or graphic arts producer) that does not otherwise  
22 qualify for the manufacturing machinery and equipment  
23 exemption or the graphic arts machinery and equipment  
24 exemption. "Production related tangible personal property"  
25 means (i) all tangible personal property used or consumed by  
26 the purchaser in a manufacturing facility in which a  
27 manufacturing process described in Section 2-45 of the  
28 Retailers' Occupation Tax Act takes place, including tangible  
29 personal property purchased for incorporation into real estate  
30 within a manufacturing facility and including, but not limited  
31 to, tangible personal property used or consumed in activities  
32 such as preproduction material handling, receiving, quality  
33 control, inventory control, storage, staging, and packaging  
34 for shipping and transportation purposes; (ii) all tangible

1 personal property used or consumed by the purchaser in a  
2 graphic arts facility in which graphic arts production as  
3 described in Section 2-30 of the Retailers' Occupation Tax Act  
4 takes place, including tangible personal property purchased  
5 for incorporation into real estate within a graphic arts  
6 facility and including, but not limited to, all tangible  
7 personal property used or consumed in activities such as  
8 graphic arts preliminary or pre-press production,  
9 pre-production material handling, receiving, quality control,  
10 inventory control, storage, staging, sorting, labeling,  
11 mailing, tying, wrapping, and packaging; and (iii) all tangible  
12 personal property used or consumed by the purchaser for  
13 research and development. "Production related tangible  
14 personal property" does not include (i) tangible personal  
15 property used, within or without a manufacturing facility, in  
16 sales, purchasing, accounting, fiscal management, marketing,  
17 personnel recruitment or selection, or landscaping or (ii)  
18 tangible personal property required to be titled or registered  
19 with a department, agency, or unit of federal, state, or local  
20 government. The Manufacturer's Purchase Credit may be used,  
21 prior to October 1, 2003, to satisfy the tax arising either  
22 from the purchase of machinery and equipment on or after  
23 January 1, 1995 for which the exemption provided by paragraph  
24 (18) of Section 3-5 of this Act was erroneously claimed, or the  
25 purchase of machinery and equipment on or after July 1, 1996  
26 for which the exemption provided by paragraph (6) of Section  
27 3-5 of this Act was erroneously claimed, but not in  
28 satisfaction of penalty, if any, and interest for failure to  
29 pay the tax when due. A purchaser of production related  
30 tangible personal property who is required to pay Illinois Use  
31 Tax or Service Use Tax on the purchase directly to the  
32 Department may, prior to October 1, 2003, utilize the  
33 Manufacturer's Purchase Credit in satisfaction of the tax  
34 arising from that purchase, but not in satisfaction of penalty

1 and interest. A purchaser who uses the Manufacturer's Purchase  
2 Credit to purchase property which is later determined not to be  
3 production related tangible personal property may be liable for  
4 tax, penalty, and interest on the purchase of that property as  
5 of the date of purchase but shall be entitled to use the  
6 disallowed Manufacturer's Purchase Credit, so long as it has  
7 not expired and is used prior to October 1, 2003, on qualifying  
8 purchases of production related tangible personal property not  
9 previously subject to credit usage. The Manufacturer's  
10 Purchase Credit earned by a manufacturer or graphic arts  
11 producer expires the last day of the second calendar year  
12 following the calendar year in which the credit arose. No  
13 Manufacturer's Purchase Credit may be used after September 30,  
14 2003 regardless of when that credit was earned.

15 A purchaser earning Manufacturer's Purchase Credit shall  
16 sign and file an annual Report of Manufacturer's Purchase  
17 Credit Earned for each calendar year no later than the last day  
18 of the sixth month following the calendar year in which a  
19 Manufacturer's Purchase Credit is earned. A Report of  
20 Manufacturer's Purchase Credit Earned shall be filed on forms  
21 as prescribed or approved by the Department and shall state,  
22 for each month of the calendar year: (i) the total purchase  
23 price of all purchases of exempt manufacturing or graphic arts  
24 machinery on which the credit was earned; (ii) the total State  
25 Use Tax or Service Use Tax which would have been due on those  
26 items; (iii) the percentage used to calculate the amount of  
27 credit earned; (iv) the amount of credit earned; and (v) such  
28 other information as the Department may reasonably require. A  
29 purchaser earning Manufacturer's Purchase Credit shall  
30 maintain records which identify, as to each purchase of  
31 manufacturing or graphic arts machinery and equipment on which  
32 the purchaser earned Manufacturer's Purchase Credit, the  
33 vendor (including, if applicable, either the vendor's  
34 registration number or Federal Employer Identification

1 Number), the purchase price, and the amount of Manufacturer's  
2 Purchase Credit earned on each purchase.

3 A purchaser using Manufacturer's Purchase Credit shall  
4 sign and file an annual Report of Manufacturer's Purchase  
5 Credit Used for each calendar year no later than the last day  
6 of the sixth month following the calendar year in which a  
7 Manufacturer's Purchase Credit is used. A Report of  
8 Manufacturer's Purchase Credit Used shall be filed on forms as  
9 prescribed or approved by the Department and shall state, for  
10 each month of the calendar year: (i) the total purchase price  
11 of production related tangible personal property purchased  
12 from Illinois suppliers; (ii) the total purchase price of  
13 production related tangible personal property purchased from  
14 out-of-state suppliers; (iii) the total amount of credit used  
15 during such month; and (iv) such other information as the  
16 Department may reasonably require. A purchaser using  
17 Manufacturer's Purchase Credit shall maintain records that  
18 identify, as to each purchase of production related tangible  
19 personal property on which the purchaser used Manufacturer's  
20 Purchase Credit, the vendor (including, if applicable, either  
21 the vendor's registration number or Federal Employer  
22 Identification Number), the purchase price, and the amount of  
23 Manufacturer's Purchase Credit used on each purchase.

24 No annual report shall be filed before May 1, 1996 or after  
25 June 30, 2004. A purchaser that fails to file an annual Report  
26 of Manufacturer's Purchase Credit Earned or an annual Report of  
27 Manufacturer's Purchase Credit Used by the last day of the  
28 sixth month following the end of the calendar year shall  
29 forfeit all Manufacturer's Purchase Credit for that calendar  
30 year unless it establishes that its failure to file was due to  
31 reasonable cause. Manufacturer's Purchase Credit reports may  
32 be amended to report and claim credit on qualifying purchases  
33 not previously reported at any time before the credit would  
34 have expired, unless both the Department and the purchaser have

1 agreed to an extension of the statute of limitations for the  
2 issuance of a notice of tax liability as provided in Section 4  
3 of the Retailers' Occupation Tax Act. If the time for  
4 assessment or refund has been extended, then amended reports  
5 for a calendar year may be filed at any time prior to the date  
6 to which the statute of limitations for the calendar year or  
7 portion thereof has been extended. No Manufacturer's Purchase  
8 Credit report filed with the Department for periods prior to  
9 January 1, 1995 shall be approved. Manufacturer's Purchase  
10 Credit claimed on an amended report may be used, until October  
11 1, 2003, to satisfy tax liability under the Use Tax Act or the  
12 Service Use Tax Act (i) on qualifying purchases of production  
13 related tangible personal property made after the date the  
14 amended report is filed or (ii) assessed by the Department on  
15 qualifying purchases of production related tangible personal  
16 property made in the case of manufacturers on or after January  
17 1, 1995, or in the case of graphic arts producers on or after  
18 July 1, 1996.

19 If the purchaser is not the manufacturer or a graphic arts  
20 producer, but rents or leases the use of the property to a  
21 manufacturer or graphic arts producer, the purchaser may earn,  
22 report, and use Manufacturer's Purchase Credit in the same  
23 manner as a manufacturer or graphic arts producer.

24 A purchaser shall not be entitled to any Manufacturer's  
25 Purchase Credit for a purchase that is required to be reported  
26 and is not timely reported as provided in this Section. A  
27 purchaser remains liable for (i) any tax that was satisfied by  
28 use of a Manufacturer's Purchase Credit, as of the date of  
29 purchase, if that use is not timely reported as required in  
30 this Section and (ii) for any applicable penalties and interest  
31 for failing to pay the tax when due. No Manufacturer's Purchase  
32 Credit may be used after September 30, 2003 to satisfy any tax  
33 liability imposed under this Act, including any audit  
34 liability.



1       (b) Manufacturer's Purchase Credit earned on and after  
2 September 1, 2004. This subsection (b) applies to  
3 Manufacturer's Purchase Credit earned on and after September 1,  
4 2004. Manufacturer's Purchase Credit earned on or after  
5 September 1, 2004 may only be used to satisfy the Use Tax or  
6 Service Use Tax liability incurred on production related  
7 tangible personal property purchased on or after September 1,  
8 2004. A purchaser of production related tangible personal  
9 property desiring to use the Manufacturer's Purchase Credit  
10 shall certify to the seller that the purchaser is satisfying  
11 all or part of the liability under the Use Tax Act or the  
12 Service Use Tax Act that is due on the purchase of the  
13 production related tangible personal property by use of  
14 Manufacturer's Purchase Credit. The Manufacturer's Purchase  
15 Credit certification must be dated and shall include the name  
16 and address of the purchaser, the purchaser's registration  
17 number, if registered, the credit being applied, and a  
18 statement that the State Use Tax or Service Use Tax liability  
19 is being satisfied with the manufacturer's or graphic arts  
20 producer's accumulated purchase credit. Certification may be  
21 incorporated into the manufacturer's or graphic arts  
22 producer's purchase order. Manufacturer's Purchase Credit  
23 certification provided by the manufacturer or graphic arts  
24 producer may be used to satisfy the retailer's or serviceman's  
25 liability under the Retailers' Occupation Tax Act or Service  
26 Occupation Tax Act for the credit claimed, not to exceed 6.25%  
27 of the receipts subject to tax from a qualifying purchase, but  
28 only if the retailer or serviceman reports the Manufacturer's  
29 Purchase Credit claimed as required by the Department. The  
30 Manufacturer's Purchase Credit earned by purchase of exempt  
31 manufacturing machinery and equipment or graphic arts  
32 machinery and equipment is a non-transferable credit. A  
33 manufacturer or graphic arts producer that enters into a  
34 contract involving the installation of tangible personal

1 property into real estate within a manufacturing or graphic  
2 arts production facility may, on or after September 1, 2004,  
3 authorize a construction contractor to utilize credit  
4 accumulated by the manufacturer or graphic arts producer to  
5 purchase the tangible personal property. A manufacturer or  
6 graphic arts producer intending to use accumulated credit to  
7 purchase such tangible personal property shall execute a  
8 written contract authorizing the contractor to utilize a  
9 specified dollar amount of credit. The contractor shall furnish  
10 the supplier with the manufacturer's or graphic arts producer's  
11 name, registration or resale number, and a statement that a  
12 specific amount of the Use Tax or Service Use Tax liability,  
13 not to exceed 6.25% of the selling price, is being satisfied  
14 with the credit. The manufacturer or graphic arts producer  
15 shall remain liable to timely report all information required  
16 by the annual Report of Manufacturer's Purchase Credit Used for  
17 all credit utilized by a construction contractor.

18 The Manufacturer's Purchase Credit may be used to satisfy  
19 liability under the Use Tax Act or the Service Use Tax Act due  
20 on the purchase, made on or after September 1, 2004, of  
21 production related tangible personal property (including  
22 purchases by a manufacturer, by a graphic arts producer, or by  
23 a lessor who rents or leases the use of the property to a  
24 manufacturer or graphic arts producer) that does not otherwise  
25 qualify for the manufacturing machinery and equipment  
26 exemption or the graphic arts machinery and equipment  
27 exemption. "Production related tangible personal property"  
28 means (i) all tangible personal property used or consumed by  
29 the purchaser in a manufacturing facility in which a  
30 manufacturing process described in Section 2-45 of the  
31 Retailers' Occupation Tax Act takes place, including tangible  
32 personal property purchased for incorporation into real estate  
33 within a manufacturing facility and including, but not limited  
34 to, tangible personal property used or consumed in activities

1 such as preproduction material handling, receiving, quality  
2 control, inventory control, storage, staging, and packaging  
3 for shipping and transportation purposes; (ii) all tangible  
4 personal property used or consumed by the purchaser in a  
5 graphic arts facility in which graphic arts production as  
6 described in Section 2-30 of the Retailers' Occupation Tax Act  
7 takes place, including tangible personal property purchased  
8 for incorporation into real estate within a graphic arts  
9 facility and including, but not limited to, all tangible  
10 personal property used or consumed in activities such as  
11 graphic arts preliminary or pre-press production,  
12 pre-production material handling, receiving, quality control,  
13 inventory control, storage, staging, sorting, labeling,  
14 mailing, tying, wrapping, and packaging; and (iii) all tangible  
15 personal property used or consumed by the purchaser for  
16 research and development. "Production related tangible  
17 personal property" does not include (i) tangible personal  
18 property used, within or without a manufacturing facility, in  
19 sales, purchasing, accounting, fiscal management, marketing,  
20 personnel recruitment or selection, or landscaping or (ii)  
21 tangible personal property required to be titled or registered  
22 with a department, agency, or unit of federal, state, or local  
23 government. The Manufacturer's Purchase Credit may be used to  
24 satisfy the tax arising either from the purchase of machinery  
25 and equipment on or after September 1, 2004 for which the  
26 exemption provided by paragraph (18) of Section 3-5 of this Act  
27 was erroneously claimed, or the purchase of machinery and  
28 equipment on or after September 1, 2004 for which the exemption  
29 provided by paragraph (6) of Section 3-5 of this Act was  
30 erroneously claimed, but not in satisfaction of penalty, if  
31 any, and interest for failure to pay the tax when due. A  
32 purchaser of production related tangible personal property  
33 that is purchased on or after September 1, 2004 who is required  
34 to pay Illinois Use Tax or Service Use Tax on the purchase

1 directly to the Department may utilize the Manufacturer's  
2 Purchase Credit in satisfaction of the tax arising from that  
3 purchase, but not in satisfaction of penalty and interest. A  
4 purchaser who uses the Manufacturer's Purchase Credit to  
5 purchase property on and after September 1, 2004 which is later  
6 determined not to be production related tangible personal  
7 property may be liable for tax, penalty, and interest on the  
8 purchase of that property as of the date of purchase but shall  
9 be entitled to use the disallowed Manufacturer's Purchase  
10 Credit, so long as it has not expired and is used on qualifying  
11 purchases of production related tangible personal property not  
12 previously subject to credit usage. The Manufacturer's  
13 Purchase Credit earned by a manufacturer or graphic arts  
14 producer expires the last day of the second calendar year  
15 following the calendar year in which the credit arose. A  
16 purchaser earning Manufacturer's Purchase Credit shall sign  
17 and file an annual Report of Manufacturer's Purchase Credit  
18 Earned for each calendar year no later than the last day of the  
19 sixth month following the calendar year in which a  
20 Manufacturer's Purchase Credit is earned. A Report of  
21 Manufacturer's Purchase Credit Earned shall be filed on forms  
22 as prescribed or approved by the Department and shall state,  
23 for each month of the calendar year: (i) the total purchase  
24 price of all purchases of exempt manufacturing or graphic arts  
25 machinery on which the credit was earned; (ii) the total State  
26 Use Tax or Service Use Tax which would have been due on those  
27 items; (iii) the percentage used to calculate the amount of  
28 credit earned; (iv) the amount of credit earned; and (v) such  
29 other information as the Department may reasonably require. A  
30 purchaser earning Manufacturer's Purchase Credit shall  
31 maintain records which identify, as to each purchase of  
32 manufacturing or graphic arts machinery and equipment on which  
33 the purchaser earned Manufacturer's Purchase Credit, the  
34 vendor (including, if applicable, either the vendor's

1 registration number or Federal Employer Identification  
2 Number), the purchase price, and the amount of Manufacturer's  
3 Purchase Credit earned on each purchase. A purchaser using  
4 Manufacturer's Purchase Credit shall sign and file an annual  
5 Report of Manufacturer's Purchase Credit Used for each calendar  
6 year no later than the last day of the sixth month following  
7 the calendar year in which a Manufacturer's Purchase Credit is  
8 used. A Report of Manufacturer's Purchase Credit Used shall be  
9 filed on forms as prescribed or approved by the Department and  
10 shall state, for each month of the calendar year: (i) the total  
11 purchase price of production related tangible personal  
12 property purchased from Illinois suppliers; (ii) the total  
13 purchase price of production related tangible personal  
14 property purchased from out-of-state suppliers; (iii) the  
15 total amount of credit used during such month; and (iv) such  
16 other information as the Department may reasonably require. A  
17 purchaser using Manufacturer's Purchase Credit shall maintain  
18 records that identify, as to each purchase of production  
19 related tangible personal property on which the purchaser used  
20 Manufacturer's Purchase Credit, the vendor (including, if  
21 applicable, either the vendor's registration number or Federal  
22 Employer Identification Number), the purchase price, and the  
23 amount of Manufacturer's Purchase Credit used on each purchase.

24 A purchaser that fails to file an annual Report of  
25 Manufacturer's Purchase Credit Earned or an annual Report of  
26 Manufacturer's Purchase Credit Used by the last day of the  
27 sixth month following the end of the calendar year shall  
28 forfeit all Manufacturer's Purchase Credit for that calendar  
29 year unless it establishes that its failure to file was due to  
30 reasonable cause. Manufacturer's Purchase Credit reports may  
31 be amended to report and claim credit on qualifying purchases  
32 not previously reported at any time before the credit would  
33 have expired, unless both the Department and the purchaser have  
34 agreed to an extension of the statute of limitations for the

1 issuance of a notice of tax liability as provided in Section 4  
2 of the Retailers' Occupation Tax Act. If the time for  
3 assessment or refund has been extended, then amended reports  
4 for a calendar year may be filed at any time prior to the date  
5 to which the statute of limitations for the calendar year or  
6 portion thereof has been extended. Manufacturer's Purchase  
7 Credit claimed on an amended report may be used to satisfy tax  
8 liability under the Use Tax Act or the Service Use Tax Act (i)  
9 on qualifying purchases of production related tangible  
10 personal property made after the date the amended report is  
11 filed or (ii) assessed by the Department on qualifying  
12 production related tangible personal property purchased on or  
13 after September 1, 2004. If the purchaser is not the  
14 manufacturer or a graphic arts producer, but rents or leases  
15 the use of the property to a manufacturer or graphic arts  
16 producer, the purchaser may earn, report, and use  
17 Manufacturer's Purchase Credit in the same manner as a  
18 manufacturer or graphic arts producer. A purchaser shall not be  
19 entitled to any Manufacturer's Purchase Credit for a purchase  
20 that is required to be reported and is not timely reported as  
21 provided in this Section. A purchaser remains liable for (i)  
22 any tax that was satisfied by use of a Manufacturer's Purchase  
23 Credit, as of the date of purchase, if that use is not timely  
24 reported as required in this Section and (ii) for any  
25 applicable penalties and interest for failing to pay the tax  
26 when due.

27 (Source: P.A. 93-24, eff. 6-20-03.)

28 Section 20-15. The Service Use Tax Act is amended by  
29 changing Sections 3-5 and 3-70 as follows:

30 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

31 Sec. 3-5. Exemptions. Use of the following tangible  
32 personal property is exempt from the tax imposed by this Act:

1           (1) Personal property purchased from a corporation,  
2 society, association, foundation, institution, or  
3 organization, other than a limited liability company, that is  
4 organized and operated as a not-for-profit service enterprise  
5 for the benefit of persons 65 years of age or older if the  
6 personal property was not purchased by the enterprise for the  
7 purpose of resale by the enterprise.

8           (2) Personal property purchased by a non-profit Illinois  
9 county fair association for use in conducting, operating, or  
10 promoting the county fair.

11           (3) Personal property purchased by a not-for-profit arts or  
12 cultural organization that establishes, by proof required by  
13 the Department by rule, that it has received an exemption under  
14 Section 501(c)(3) of the Internal Revenue Code and that is  
15 organized and operated primarily for the presentation or  
16 support of arts or cultural programming, activities, or  
17 services. These organizations include, but are not limited to,  
18 music and dramatic arts organizations such as symphony  
19 orchestras and theatrical groups, arts and cultural service  
20 organizations, local arts councils, visual arts organizations,  
21 and media arts organizations. On and after the effective date  
22 of this amendatory Act of the 92nd General Assembly, however,  
23 an entity otherwise eligible for this exemption shall not make  
24 tax-free purchases unless it has an active identification  
25 number issued by the Department.

26           (4) Legal tender, currency, medallions, or gold or silver  
27 coinage issued by the State of Illinois, the government of the  
28 United States of America, or the government of any foreign  
29 country, and bullion.

30           (5) Until July 1, 2003 and beginning again on September 1,  
31 2004, graphic arts machinery and equipment, including repair  
32 and replacement parts, both new and used, and including that  
33 manufactured on special order or purchased for lease, certified  
34 by the purchaser to be used primarily for graphic arts

1 production. Equipment includes chemicals or chemicals acting  
2 as catalysts but only if the chemicals or chemicals acting as  
3 catalysts effect a direct and immediate change upon a graphic  
4 arts product.

5 (6) Personal property purchased from a teacher-sponsored  
6 student organization affiliated with an elementary or  
7 secondary school located in Illinois.

8 (7) Farm machinery and equipment, both new and used,  
9 including that manufactured on special order, certified by the  
10 purchaser to be used primarily for production agriculture or  
11 State or federal agricultural programs, including individual  
12 replacement parts for the machinery and equipment, including  
13 machinery and equipment purchased for lease, and including  
14 implements of husbandry defined in Section 1-130 of the  
15 Illinois Vehicle Code, farm machinery and agricultural  
16 chemical and fertilizer spreaders, and nurse wagons required to  
17 be registered under Section 3-809 of the Illinois Vehicle Code,  
18 but excluding other motor vehicles required to be registered  
19 under the Illinois Vehicle Code. Horticultural polyhouses or  
20 hoop houses used for propagating, growing, or overwintering  
21 plants shall be considered farm machinery and equipment under  
22 this item (7). Agricultural chemical tender tanks and dry boxes  
23 shall include units sold separately from a motor vehicle  
24 required to be licensed and units sold mounted on a motor  
25 vehicle required to be licensed if the selling price of the  
26 tender is separately stated.

27 Farm machinery and equipment shall include precision  
28 farming equipment that is installed or purchased to be  
29 installed on farm machinery and equipment including, but not  
30 limited to, tractors, harvesters, sprayers, planters, seeders,  
31 or spreaders. Precision farming equipment includes, but is not  
32 limited to, soil testing sensors, computers, monitors,  
33 software, global positioning and mapping systems, and other  
34 such equipment.



1 Farm machinery and equipment also includes computers,  
2 sensors, software, and related equipment used primarily in the  
3 computer-assisted operation of production agriculture  
4 facilities, equipment, and activities such as, but not limited  
5 to, the collection, monitoring, and correlation of animal and  
6 crop data for the purpose of formulating animal diets and  
7 agricultural chemicals. This item (7) is exempt from the  
8 provisions of Section 3-75.

9 (8) Fuel and petroleum products sold to or used by an air  
10 common carrier, certified by the carrier to be used for  
11 consumption, shipment, or storage in the conduct of its  
12 business as an air common carrier, for a flight destined for or  
13 returning from a location or locations outside the United  
14 States without regard to previous or subsequent domestic  
15 stopovers.

16 (9) Proceeds of mandatory service charges separately  
17 stated on customers' bills for the purchase and consumption of  
18 food and beverages acquired as an incident to the purchase of a  
19 service from a serviceman, to the extent that the proceeds of  
20 the service charge are in fact turned over as tips or as a  
21 substitute for tips to the employees who participate directly  
22 in preparing, serving, hosting or cleaning up the food or  
23 beverage function with respect to which the service charge is  
24 imposed.

25 (10) Until July 1, 2003, oil field exploration, drilling,  
26 and production equipment, including (i) rigs and parts of rigs,  
27 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
28 tubular goods, including casing and drill strings, (iii) pumps  
29 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
30 individual replacement part for oil field exploration,  
31 drilling, and production equipment, and (vi) machinery and  
32 equipment purchased for lease; but excluding motor vehicles  
33 required to be registered under the Illinois Vehicle Code.

34 (11) Proceeds from the sale of photoprocessing machinery

1 and equipment, including repair and replacement parts, both new  
2 and used, including that manufactured on special order,  
3 certified by the purchaser to be used primarily for  
4 photoprocessing, and including photoprocessing machinery and  
5 equipment purchased for lease.

6 (12) Until July 1, 2003, coal exploration, mining,  
7 offhighway hauling, processing, maintenance, and reclamation  
8 equipment, including replacement parts and equipment, and  
9 including equipment purchased for lease, but excluding motor  
10 vehicles required to be registered under the Illinois Vehicle  
11 Code.

12 (13) Semen used for artificial insemination of livestock  
13 for direct agricultural production.

14 (14) Horses, or interests in horses, registered with and  
15 meeting the requirements of any of the Arabian Horse Club  
16 Registry of America, Appaloosa Horse Club, American Quarter  
17 Horse Association, United States Trotting Association, or  
18 Jockey Club, as appropriate, used for purposes of breeding or  
19 racing for prizes.

20 (15) Computers and communications equipment utilized for  
21 any hospital purpose and equipment used in the diagnosis,  
22 analysis, or treatment of hospital patients purchased by a  
23 lessor who leases the equipment, under a lease of one year or  
24 longer executed or in effect at the time the lessor would  
25 otherwise be subject to the tax imposed by this Act, to a  
26 hospital that has been issued an active tax exemption  
27 identification number by the Department under Section 1g of the  
28 Retailers' Occupation Tax Act. If the equipment is leased in a  
29 manner that does not qualify for this exemption or is used in  
30 any other non-exempt manner, the lessor shall be liable for the  
31 tax imposed under this Act or the Use Tax Act, as the case may  
32 be, based on the fair market value of the property at the time  
33 the non-qualifying use occurs. No lessor shall collect or  
34 attempt to collect an amount (however designated) that purports

1 to reimburse that lessor for the tax imposed by this Act or the  
2 Use Tax Act, as the case may be, if the tax has not been paid by  
3 the lessor. If a lessor improperly collects any such amount  
4 from the lessee, the lessee shall have a legal right to claim a  
5 refund of that amount from the lessor. If, however, that amount  
6 is not refunded to the lessee for any reason, the lessor is  
7 liable to pay that amount to the Department.

8 (16) Personal property purchased by a lessor who leases the  
9 property, under a lease of one year or longer executed or in  
10 effect at the time the lessor would otherwise be subject to the  
11 tax imposed by this Act, to a governmental body that has been  
12 issued an active tax exemption identification number by the  
13 Department under Section 1g of the Retailers' Occupation Tax  
14 Act. If the property is leased in a manner that does not  
15 qualify for this exemption or is used in any other non-exempt  
16 manner, the lessor shall be liable for the tax imposed under  
17 this Act or the Use Tax Act, as the case may be, based on the  
18 fair market value of the property at the time the  
19 non-qualifying use occurs. No lessor shall collect or attempt  
20 to collect an amount (however designated) that purports to  
21 reimburse that lessor for the tax imposed by this Act or the  
22 Use Tax Act, as the case may be, if the tax has not been paid by  
23 the lessor. If a lessor improperly collects any such amount  
24 from the lessee, the lessee shall have a legal right to claim a  
25 refund of that amount from the lessor. If, however, that amount  
26 is not refunded to the lessee for any reason, the lessor is  
27 liable to pay that amount to the Department.

28 (17) Beginning with taxable years ending on or after  
29 December 31, 1995 and ending with taxable years ending on or  
30 before December 31, 2004, personal property that is donated for  
31 disaster relief to be used in a State or federally declared  
32 disaster area in Illinois or bordering Illinois by a  
33 manufacturer or retailer that is registered in this State to a  
34 corporation, society, association, foundation, or institution

1 that has been issued a sales tax exemption identification  
2 number by the Department that assists victims of the disaster  
3 who reside within the declared disaster area.

4 (18) Beginning with taxable years ending on or after  
5 December 31, 1995 and ending with taxable years ending on or  
6 before December 31, 2004, personal property that is used in the  
7 performance of infrastructure repairs in this State, including  
8 but not limited to municipal roads and streets, access roads,  
9 bridges, sidewalks, waste disposal systems, water and sewer  
10 line extensions, water distribution and purification  
11 facilities, storm water drainage and retention facilities, and  
12 sewage treatment facilities, resulting from a State or  
13 federally declared disaster in Illinois or bordering Illinois  
14 when such repairs are initiated on facilities located in the  
15 declared disaster area within 6 months after the disaster.

16 (19) Beginning July 1, 1999, game or game birds purchased  
17 at a "game breeding and hunting preserve area" or an "exotic  
18 game hunting area" as those terms are used in the Wildlife Code  
19 or at a hunting enclosure approved through rules adopted by the  
20 Department of Natural Resources. This paragraph is exempt from  
21 the provisions of Section 3-75.

22 (20) A motor vehicle, as that term is defined in Section  
23 1-146 of the Illinois Vehicle Code, that is donated to a  
24 corporation, limited liability company, society, association,  
25 foundation, or institution that is determined by the Department  
26 to be organized and operated exclusively for educational  
27 purposes. For purposes of this exemption, "a corporation,  
28 limited liability company, society, association, foundation,  
29 or institution organized and operated exclusively for  
30 educational purposes" means all tax-supported public schools,  
31 private schools that offer systematic instruction in useful  
32 branches of learning by methods common to public schools and  
33 that compare favorably in their scope and intensity with the  
34 course of study presented in tax-supported schools, and

1 vocational or technical schools or institutes organized and  
2 operated exclusively to provide a course of study of not less  
3 than 6 weeks duration and designed to prepare individuals to  
4 follow a trade or to pursue a manual, technical, mechanical,  
5 industrial, business, or commercial occupation.

6 (21) Beginning January 1, 2000, personal property,  
7 including food, purchased through fundraising events for the  
8 benefit of a public or private elementary or secondary school,  
9 a group of those schools, or one or more school districts if  
10 the events are sponsored by an entity recognized by the school  
11 district that consists primarily of volunteers and includes  
12 parents and teachers of the school children. This paragraph  
13 does not apply to fundraising events (i) for the benefit of  
14 private home instruction or (ii) for which the fundraising  
15 entity purchases the personal property sold at the events from  
16 another individual or entity that sold the property for the  
17 purpose of resale by the fundraising entity and that profits  
18 from the sale to the fundraising entity. This paragraph is  
19 exempt from the provisions of Section 3-75.

20 (22) Beginning January 1, 2000 and through December 31,  
21 2001, new or used automatic vending machines that prepare and  
22 serve hot food and beverages, including coffee, soup, and other  
23 items, and replacement parts for these machines. Beginning  
24 January 1, 2002 and through June 30, 2003, machines and parts  
25 for machines used in commercial, coin-operated amusement and  
26 vending business if a use or occupation tax is paid on the  
27 gross receipts derived from the use of the commercial,  
28 coin-operated amusement and vending machines. This paragraph  
29 is exempt from the provisions of Section 3-75.

30 (23) Food for human consumption that is to be consumed off  
31 the premises where it is sold (other than alcoholic beverages,  
32 soft drinks, and food that has been prepared for immediate  
33 consumption) and prescription and nonprescription medicines,  
34 drugs, medical appliances, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human  
2 use, when purchased for use by a person receiving medical  
3 assistance under Article 5 of the Illinois Public Aid Code who  
4 resides in a licensed long-term care facility, as defined in  
5 the Nursing Home Care Act.

6 (24) Beginning on the effective date of this amendatory Act  
7 of the 92nd General Assembly, computers and communications  
8 equipment utilized for any hospital purpose and equipment used  
9 in the diagnosis, analysis, or treatment of hospital patients  
10 purchased by a lessor who leases the equipment, under a lease  
11 of one year or longer executed or in effect at the time the  
12 lessor would otherwise be subject to the tax imposed by this  
13 Act, to a hospital that has been issued an active tax exemption  
14 identification number by the Department under Section 1g of the  
15 Retailers' Occupation Tax Act. If the equipment is leased in a  
16 manner that does not qualify for this exemption or is used in  
17 any other nonexempt manner, the lessor shall be liable for the  
18 tax imposed under this Act or the Use Tax Act, as the case may  
19 be, based on the fair market value of the property at the time  
20 the nonqualifying use occurs. No lessor shall collect or  
21 attempt to collect an amount (however designated) that purports  
22 to reimburse that lessor for the tax imposed by this Act or the  
23 Use Tax Act, as the case may be, if the tax has not been paid by  
24 the lessor. If a lessor improperly collects any such amount  
25 from the lessee, the lessee shall have a legal right to claim a  
26 refund of that amount from the lessor. If, however, that amount  
27 is not refunded to the lessee for any reason, the lessor is  
28 liable to pay that amount to the Department. This paragraph is  
29 exempt from the provisions of Section 3-75.

30 (25) Beginning on the effective date of this amendatory Act  
31 of the 92nd General Assembly, personal property purchased by a  
32 lessor who leases the property, under a lease of one year or  
33 longer executed or in effect at the time the lessor would  
34 otherwise be subject to the tax imposed by this Act, to a

1 governmental body that has been issued an active tax exemption  
2 identification number by the Department under Section 1g of the  
3 Retailers' Occupation Tax Act. If the property is leased in a  
4 manner that does not qualify for this exemption or is used in  
5 any other nonexempt manner, the lessor shall be liable for the  
6 tax imposed under this Act or the Use Tax Act, as the case may  
7 be, based on the fair market value of the property at the time  
8 the nonqualifying use occurs. No lessor shall collect or  
9 attempt to collect an amount (however designated) that purports  
10 to reimburse that lessor for the tax imposed by this Act or the  
11 Use Tax Act, as the case may be, if the tax has not been paid by  
12 the lessor. If a lessor improperly collects any such amount  
13 from the lessee, the lessee shall have a legal right to claim a  
14 refund of that amount from the lessor. If, however, that amount  
15 is not refunded to the lessee for any reason, the lessor is  
16 liable to pay that amount to the Department. This paragraph is  
17 exempt from the provisions of Section 3-75.

18 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
19 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
20 92-651, eff. 7-11-02; 93-24, eff. 6-20-03.)

21 (35 ILCS 110/3-70)

22 Sec. 3-70. Manufacturer's Purchase Credit. For purchases  
23 of machinery and equipment made on and after January 1, 1995  
24 and through June 30, 2003, and on and after September 1, 2004,  
25 a purchaser of manufacturing machinery and equipment that  
26 qualifies for the exemption provided by Section 2 of this Act  
27 earns a credit in an amount equal to a fixed percentage of the  
28 tax which would have been incurred under this Act on those  
29 purchases. For purchases of graphic arts machinery and  
30 equipment made on or after July 1, 1996 ~~and~~ through June 30,  
31 2003, and on and after September 1, 2004, a purchase of graphic  
32 arts machinery and equipment that qualifies for the exemption  
33 provided by paragraph (5) of Section 3-5 of this Act earns a

1 credit in an amount equal to a fixed percentage of the tax that  
2 would have been incurred under this Act on those purchases. The  
3 credit earned for the purchase of manufacturing machinery and  
4 equipment and graphic arts machinery and equipment shall be  
5 referred to as the Manufacturer's Purchase Credit. A graphic  
6 arts producer is a person engaged in graphic arts production as  
7 defined in Section 3-30 of the Service Occupation Tax Act.  
8 Beginning July 1, 1996, all references in this Section to  
9 manufacturers or manufacturing shall also refer to graphic arts  
10 producers or graphic arts production.

11 The amount of credit shall be a percentage of the tax that  
12 would have been incurred on the purchase of the manufacturing  
13 machinery and equipment or graphic arts machinery and equipment  
14 if the exemptions provided by Section 2 or paragraph (5) of  
15 Section 3-5 of this Act had not been applicable.

16 All purchases prior to October 1, 2003 of manufacturing  
17 machinery and equipment and graphic arts machinery and  
18 equipment that qualify for the exemptions provided by paragraph  
19 (5) of Section 2 or paragraph (5) of Section 3-5 of this Act  
20 qualify for the credit without regard to whether the serviceman  
21 elected, or could have elected, under paragraph (7) of Section  
22 2 of this Act to exclude the transaction from this Act. If the  
23 serviceman's billing to the service customer separately states  
24 a selling price for the exempt manufacturing machinery or  
25 equipment or the exempt graphic arts machinery and equipment,  
26 the credit shall be calculated, as otherwise provided herein,  
27 based on that selling price. If the serviceman's billing does  
28 not separately state a selling price for the exempt  
29 manufacturing machinery and equipment or the exempt graphic  
30 arts machinery and equipment, the credit shall be calculated,  
31 as otherwise provided herein, based on 50% of the entire  
32 billing. If the serviceman contracts to design, develop, and  
33 produce special order manufacturing machinery and equipment or  
34 special order graphic arts machinery and equipment, and the



1 billing does not separately state a selling price for such  
2 special order machinery and equipment, the credit shall be  
3 calculated, as otherwise provided herein, based on 50% of the  
4 entire billing. The provisions of this paragraph are effective  
5 for purchases made on or after January 1, 1995.

6 The percentage shall be as follows:

7 (1) 15% for purchases made on or before June 30, 1995.

8 (2) 25% for purchases made after June 30, 1995, and on  
9 or before June 30, 1996.

10 (3) 40% for purchases made after June 30, 1996, and on  
11 or before June 30, 1997.

12 (4) 50% for purchases made on or after July 1, 1997.

13 (a) Manufacturer's Purchase Credit earned prior to July 1,  
14 2003. This subsection (a) applies to Manufacturer's Purchase  
15 Credit earned prior to July 1, 2003. A purchaser of production  
16 related tangible personal property desiring to use the  
17 Manufacturer's Purchase Credit shall certify to the seller  
18 prior to October 1, 2003 that the purchaser is satisfying all  
19 or part of the liability under the Use Tax Act or the Service  
20 Use Tax Act that is due on the purchase of the production  
21 related tangible personal property by use of a Manufacturer's  
22 Purchase Credit. The Manufacturer's Purchase Credit  
23 certification must be dated and shall include the name and  
24 address of the purchaser, the purchaser's registration number,  
25 if registered, the credit being applied, and a statement that  
26 the State Use Tax or Service Use Tax liability is being  
27 satisfied with the manufacturer's or graphic arts producer's  
28 accumulated purchase credit. Certification may be incorporated  
29 into the manufacturer's or graphic arts producer's purchase  
30 order. Manufacturer's Purchase Credit certification provided  
31 by the manufacturer or graphic arts producer prior to October  
32 1, 2003 may be used to satisfy the retailer's or serviceman's  
33 liability under the Retailers' Occupation Tax Act or Service  
34 Occupation Tax Act for the credit claimed, not to exceed 6.25%

1 of the receipts subject to tax from a qualifying purchase, but  
2 only if the retailer or serviceman reports the Manufacturer's  
3 Purchase Credit claimed as required by the Department. A  
4 Manufacturer's Purchase Credit reported on any original or  
5 amended return filed under this Act after October 20, 2003  
6 shall be disallowed. The Manufacturer's Purchase Credit earned  
7 by purchase of exempt manufacturing machinery and equipment or  
8 graphic arts machinery and equipment is a non-transferable  
9 credit. A manufacturer or graphic arts producer that enters  
10 into a contract involving the installation of tangible personal  
11 property into real estate within a manufacturing or graphic  
12 arts production facility, prior to October 1, 2003, may  
13 authorize a construction contractor to utilize credit  
14 accumulated by the manufacturer or graphic arts producer to  
15 purchase the tangible personal property. A manufacturer or  
16 graphic arts producer intending to use accumulated credit to  
17 purchase such tangible personal property shall execute a  
18 written contract authorizing the contractor to utilize a  
19 specified dollar amount of credit. The contractor shall  
20 furnish, prior to October 1, 2003, the supplier with the  
21 manufacturer's or graphic arts producer's name, registration  
22 or resale number, and a statement that a specific amount of the  
23 Use Tax or Service Use Tax liability, not to exceed 6.25% of  
24 the selling price, is being satisfied with the credit. The  
25 manufacturer or graphic arts producer shall remain liable to  
26 timely report all information required by the annual Report of  
27 Manufacturer's Purchase Credit Used for credit utilized by a  
28 construction contractor.

29 No Manufacturer's Purchase Credit earned prior to July 1,  
30 2003 may be used after October 1, 2003. The Manufacturer's  
31 Purchase Credit may be used to satisfy liability under the Use  
32 Tax Act or the Service Use Tax Act due on the purchase of  
33 production related tangible personal property (including  
34 purchases by a manufacturer, by a graphic arts producer, or a

1 lessor who rents or leases the use of the property to a  
2 manufacturer or graphic arts producer) that does not otherwise  
3 qualify for the manufacturing machinery and equipment  
4 exemption or the graphic arts machinery and equipment  
5 exemption. "Production related tangible personal property"  
6 means (i) all tangible personal property used or consumed by  
7 the purchaser in a manufacturing facility in which a  
8 manufacturing process described in Section 2-45 of the  
9 Retailers' Occupation Tax Act takes place, including tangible  
10 personal property purchased for incorporation into real estate  
11 within a manufacturing facility and including, but not limited  
12 to, tangible personal property used or consumed in activities  
13 such as pre-production material handling, receiving, quality  
14 control, inventory control, storage, staging, and packaging  
15 for shipping and transportation purposes; (ii) all tangible  
16 personal property used or consumed by the purchaser in a  
17 graphic arts facility in which graphic arts production as  
18 described in Section 2-30 of the Retailers' Occupation Tax Act  
19 takes place, including tangible personal property purchased  
20 for incorporation into real estate within a graphic arts  
21 facility and including, but not limited to, all tangible  
22 personal property used or consumed in activities such as  
23 graphic arts preliminary or pre-press production,  
24 pre-production material handling, receiving, quality control,  
25 inventory control, storage, staging, sorting, labeling,  
26 mailing, tying, wrapping, and packaging; and (iii) all tangible  
27 personal property used or consumed by the purchaser for  
28 research and development. "Production related tangible  
29 personal property" does not include (i) tangible personal  
30 property used, within or without a manufacturing or graphic  
31 arts facility, in sales, purchasing, accounting, fiscal  
32 management, marketing, personnel recruitment or selection, or  
33 landscaping or (ii) tangible personal property required to be  
34 titled or registered with a department, agency, or unit of

1 federal, state, or local government. The Manufacturer's  
2 Purchase Credit may be used, prior to October 1, 2003, to  
3 satisfy the tax arising either from the purchase of machinery  
4 and equipment on or after January 1, 1995 for which the  
5 manufacturing machinery and equipment exemption provided by  
6 Section 2 of this Act was erroneously claimed, or the purchase  
7 of machinery and equipment on or after July 1, 1996 for which  
8 the exemption provided by paragraph (5) of Section 3-5 of this  
9 Act was erroneously claimed, but not in satisfaction of  
10 penalty, if any, and interest for failure to pay the tax when  
11 due. A purchaser of production related tangible personal  
12 property who is required to pay Illinois Use Tax or Service Use  
13 Tax on the purchase directly to the Department may, prior to  
14 October 1, 2003, utilize the Manufacturer's Purchase Credit in  
15 satisfaction of the tax arising from that purchase, but not in  
16 satisfaction of penalty and interest. A purchaser who uses the  
17 Manufacturer's Purchase Credit to purchase property which is  
18 later determined not to be production related tangible personal  
19 property may be liable for tax, penalty, and interest on the  
20 purchase of that property as of the date of purchase but shall  
21 be entitled to use the disallowed Manufacturer's Purchase  
22 Credit, so long as it has not expired and is used prior to  
23 October 1, 2003, on qualifying purchases of production related  
24 tangible personal property not previously subject to credit  
25 usage. The Manufacturer's Purchase Credit earned by a  
26 manufacturer or graphic arts producer expires the last day of  
27 the second calendar year following the calendar year in which  
28 the credit arose. No Manufacturer's Purchase Credit may be used  
29 after September 30, 2003 regardless of when that credit was  
30 earned.

31 A purchaser earning Manufacturer's Purchase Credit shall  
32 sign and file an annual Report of Manufacturer's Purchase  
33 Credit Earned for each calendar year no later than the last day  
34 of the sixth month following the calendar year in which a

1 Manufacturer's Purchase Credit is earned. A Report of  
2 Manufacturer's Purchase Credit Earned shall be filed on forms  
3 as prescribed or approved by the Department and shall state,  
4 for each month of the calendar year: (i) the total purchase  
5 price of all purchases of exempt manufacturing or graphic arts  
6 machinery on which the credit was earned; (ii) the total State  
7 Use Tax or Service Use Tax which would have been due on those  
8 items; (iii) the percentage used to calculate the amount of  
9 credit earned; (iv) the amount of credit earned; and (v) such  
10 other information as the Department may reasonably require. A  
11 purchaser earning Manufacturer's Purchase Credit shall  
12 maintain records which identify, as to each purchase of  
13 manufacturing or graphic arts machinery and equipment on which  
14 the purchaser earned Manufacturer's Purchase Credit, the  
15 vendor (including, if applicable, either the vendor's  
16 registration number or Federal Employer Identification  
17 Number), the purchase price, and the amount of Manufacturer's  
18 Purchase Credit earned on each purchase.

19 A purchaser using Manufacturer's Purchase Credit shall  
20 sign and file an annual Report of Manufacturer's Purchase  
21 Credit Used for each calendar year no later than the last day  
22 of the sixth month following the calendar year in which a  
23 Manufacturer's Purchase Credit is used. A Report of  
24 Manufacturer's Purchase Credit Used shall be filed on forms as  
25 prescribed or approved by the Department and shall state, for  
26 each month of the calendar year: (i) the total purchase price  
27 of production related tangible personal property purchased  
28 from Illinois suppliers; (ii) the total purchase price of  
29 production related tangible personal property purchased from  
30 out-of-state suppliers; (iii) the total amount of credit used  
31 during such month; and (iv) such other information as the  
32 Department may reasonably require. A purchaser using  
33 Manufacturer's Purchase Credit shall maintain records that  
34 identify, as to each purchase of production related tangible

1 personal property on which the purchaser used Manufacturer's  
2 Purchase Credit, the vendor (including, if applicable, either  
3 the vendor's registration number or Federal Employer  
4 Identification Number), the purchase price, and the amount of  
5 Manufacturer's Purchase Credit used on each purchase.

6 No annual report shall be filed before May 1, 1996 or after  
7 June 30, 2004. A purchaser that fails to file an annual Report  
8 of Manufacturer's Purchase Credit Earned or an annual Report of  
9 Manufacturer's Purchase Credit Used by the last day of the  
10 sixth month following the end of the calendar year shall  
11 forfeit all Manufacturer's Purchase Credit for that calendar  
12 year unless it establishes that its failure to file was due to  
13 reasonable cause. Manufacturer's Purchase Credit reports may  
14 be amended to report and claim credit on qualifying purchases  
15 not previously reported at any time before the credit would  
16 have expired, unless both the Department and the purchaser have  
17 agreed to an extension of the statute of limitations for the  
18 issuance of a notice of tax liability as provided in Section 4  
19 of the Retailers' Occupation Tax Act. If the time for  
20 assessment or refund has been extended, then amended reports  
21 for a calendar year may be filed at any time prior to the date  
22 to which the statute of limitations for the calendar year or  
23 portion thereof has been extended. No Manufacturer's Purchase  
24 Credit report filed with the Department for periods prior to  
25 January 1, 1995 shall be approved. Manufacturer's Purchase  
26 Credit claimed on an amended report may be used, prior to  
27 October 1, 2003, to satisfy tax liability under the Use Tax Act  
28 or the Service Use Tax Act (i) on qualifying purchases of  
29 production related tangible personal property made after the  
30 date the amended report is filed or (ii) assessed by the  
31 Department on qualifying purchases of production related  
32 tangible personal property made in the case of manufacturers on  
33 or after January 1, 1995, or in the case of graphic arts  
34 producers on or after July 1, 1996.

1           If the purchaser is not the manufacturer or a graphic arts  
2 producer, but rents or leases the use of the property to a  
3 manufacturer or a graphic arts producer, the purchaser may  
4 earn, report, and use Manufacturer's Purchase Credit in the  
5 same manner as a manufacturer or graphic arts producer.

6           A purchaser shall not be entitled to any Manufacturer's  
7 Purchase Credit for a purchase that is required to be reported  
8 and is not timely reported as provided in this Section. A  
9 purchaser remains liable for (i) any tax that was satisfied by  
10 use of a Manufacturer's Purchase Credit, as of the date of  
11 purchase, if that use is not timely reported as required in  
12 this Section and (ii) for any applicable penalties and interest  
13 for failing to pay the tax when due. No Manufacturer's Purchase  
14 Credit may be used after September 30, 2003 to satisfy any tax  
15 liability imposed under this Act, including any audit  
16 liability.

17           (b) Manufacturer's Purchase Credit earned on and after  
18 September 1, 2004. This subsection (b) applies to  
19 Manufacturer's Purchase Credit earned on or after September 1,  
20 2004. Manufacturer's Purchase Credit earned on or after  
21 September 1, 2004 may only be used to satisfy the Use Tax or  
22 Service Use Tax liability incurred on production related  
23 tangible personal property purchased on or after September 1,  
24 2004. A purchaser of production related tangible personal  
25 property desiring to use the Manufacturer's Purchase Credit  
26 shall certify to the seller that the purchaser is satisfying  
27 all or part of the liability under the Use Tax Act or the  
28 Service Use Tax Act that is due on the purchase of the  
29 production related tangible personal property by use of a  
30 Manufacturer's Purchase Credit. The Manufacturer's Purchase  
31 Credit certification must be dated and shall include the name  
32 and address of the purchaser, the purchaser's registration  
33 number, if registered, the credit being applied, and a  
34 statement that the State Use Tax or Service Use Tax liability

1 is being satisfied with the manufacturer's or graphic arts  
2 producer's accumulated purchase credit. Certification may be  
3 incorporated into the manufacturer's or graphic arts  
4 producer's purchase order. Manufacturer's Purchase Credit  
5 certification provided by the manufacturer or graphic arts  
6 producer may be used to satisfy the retailer's or serviceman's  
7 liability under the Retailers' Occupation Tax Act or Service  
8 Occupation Tax Act for the credit claimed, not to exceed 6.25%  
9 of the receipts subject to tax from a qualifying purchase, but  
10 only if the retailer or serviceman reports the Manufacturer's  
11 Purchase Credit claimed as required by the Department. The  
12 Manufacturer's Purchase Credit earned by purchase of exempt  
13 manufacturing machinery and equipment or graphic arts  
14 machinery and equipment is a non-transferable credit. A  
15 manufacturer or graphic arts producer that enters into a  
16 contract involving the installation of tangible personal  
17 property into real estate within a manufacturing or graphic  
18 arts production facility may, on or after September 1, 2004,  
19 authorize a construction contractor to utilize credit  
20 accumulated by the manufacturer or graphic arts producer to  
21 purchase the tangible personal property. A manufacturer or  
22 graphic arts producer intending to use accumulated credit to  
23 purchase such tangible personal property shall execute a  
24 written contract authorizing the contractor to utilize a  
25 specified dollar amount of credit. The contractor shall furnish  
26 the supplier with the manufacturer's or graphic arts producer's  
27 name, registration or resale number, and a statement that a  
28 specific amount of the Use Tax or Service Use Tax liability,  
29 not to exceed 6.25% of the selling price, is being satisfied  
30 with the credit. The manufacturer or graphic arts producer  
31 shall remain liable to timely report all information required  
32 by the annual Report of Manufacturer's Purchase Credit Used for  
33 credit utilized by a construction contractor.

34 The Manufacturer's Purchase Credit may be used to satisfy



1 liability under the Use Tax Act or the Service Use Tax Act due  
2 on the purchase, made on or after September 1, 2004, of  
3 production related tangible personal property (including  
4 purchases by a manufacturer, by a graphic arts producer, or a  
5 lessor who rents or leases the use of the property to a  
6 manufacturer or graphic arts producer) that does not otherwise  
7 qualify for the manufacturing machinery and equipment  
8 exemption or the graphic arts machinery and equipment  
9 exemption. "Production related tangible personal property"  
10 means (i) all tangible personal property used or consumed by  
11 the purchaser in a manufacturing facility in which a  
12 manufacturing process described in Section 2-45 of the  
13 Retailers' Occupation Tax Act takes place, including tangible  
14 personal property purchased for incorporation into real estate  
15 within a manufacturing facility and including, but not limited  
16 to, tangible personal property used or consumed in activities  
17 such as pre-production material handling, receiving, quality  
18 control, inventory control, storage, staging, and packaging  
19 for shipping and transportation purposes; (ii) all tangible  
20 personal property used or consumed by the purchaser in a  
21 graphic arts facility in which graphic arts production as  
22 described in Section 2-30 of the Retailers' Occupation Tax Act  
23 takes place, including tangible personal property purchased  
24 for incorporation into real estate within a graphic arts  
25 facility and including, but not limited to, all tangible  
26 personal property used or consumed in activities such as  
27 graphic arts preliminary or pre-press production,  
28 pre-production material handling, receiving, quality control,  
29 inventory control, storage, staging, sorting, labeling,  
30 mailing, tying, wrapping, and packaging; and (iii) all tangible  
31 personal property used or consumed by the purchaser for  
32 research and development. "Production related tangible  
33 personal property" does not include (i) tangible personal  
34 property used, within or without a manufacturing or graphic

1 arts facility, in sales, purchasing, accounting, fiscal  
2 management, marketing, personnel recruitment or selection, or  
3 landscaping or (ii) tangible personal property required to be  
4 titled or registered with a department, agency, or unit of  
5 federal, state, or local government. The Manufacturer's  
6 Purchase Credit may be used to satisfy the tax arising either  
7 from the purchase of machinery and equipment on or after  
8 September 1, 2004 for which the manufacturing machinery and  
9 equipment exemption provided by Section 2 of this Act was  
10 erroneously claimed, or the purchase of machinery and equipment  
11 on or after September 1, 2004 for which the exemption provided  
12 by paragraph (5) of Section 3-5 of this Act was erroneously  
13 claimed, but not in satisfaction of penalty, if any, and  
14 interest for failure to pay the tax when due. A purchaser of  
15 production related tangible personal property that is  
16 purchased on or after September 1, 2004 who is required to pay  
17 Illinois Use Tax or Service Use Tax on the purchase directly to  
18 the Department may utilize the Manufacturer's Purchase Credit  
19 in satisfaction of the tax arising from that purchase, but not  
20 in satisfaction of penalty and interest. A purchaser who uses  
21 the Manufacturer's Purchase Credit to purchase property on and  
22 after September 1, 2004 which is later determined not to be  
23 production related tangible personal property may be liable for  
24 tax, penalty, and interest on the purchase of that property as  
25 of the date of purchase but shall be entitled to use the  
26 disallowed Manufacturer's Purchase Credit, so long as it has  
27 not expired, on qualifying purchases of production related  
28 tangible personal property not previously subject to credit  
29 usage. The Manufacturer's Purchase Credit earned by a  
30 manufacturer or graphic arts producer expires the last day of  
31 the second calendar year following the calendar year in which  
32 the credit arose.

33 A purchaser earning Manufacturer's Purchase Credit shall  
34 sign and file an annual Report of Manufacturer's Purchase

1 Credit Earned for each calendar year no later than the last day  
2 of the sixth month following the calendar year in which a  
3 Manufacturer's Purchase Credit is earned. A Report of  
4 Manufacturer's Purchase Credit Earned shall be filed on forms  
5 as prescribed or approved by the Department and shall state,  
6 for each month of the calendar year: (i) the total purchase  
7 price of all purchases of exempt manufacturing or graphic arts  
8 machinery on which the credit was earned; (ii) the total State  
9 Use Tax or Service Use Tax which would have been due on those  
10 items; (iii) the percentage used to calculate the amount of  
11 credit earned; (iv) the amount of credit earned; and (v) such  
12 other information as the Department may reasonably require. A  
13 purchaser earning Manufacturer's Purchase Credit shall  
14 maintain records which identify, as to each purchase of  
15 manufacturing or graphic arts machinery and equipment on which  
16 the purchaser earned Manufacturer's Purchase Credit, the  
17 vendor (including, if applicable, either the vendor's  
18 registration number or Federal Employer Identification  
19 Number), the purchase price, and the amount of Manufacturer's  
20 Purchase Credit earned on each purchase.

21 A purchaser using Manufacturer's Purchase Credit shall  
22 sign and file an annual Report of Manufacturer's Purchase  
23 Credit Used for each calendar year no later than the last day  
24 of the sixth month following the calendar year in which a  
25 Manufacturer's Purchase Credit is used. A Report of  
26 Manufacturer's Purchase Credit Used shall be filed on forms as  
27 prescribed or approved by the Department and shall state, for  
28 each month of the calendar year: (i) the total purchase price  
29 of production related tangible personal property purchased  
30 from Illinois suppliers; (ii) the total purchase price of  
31 production related tangible personal property purchased from  
32 out-of-state suppliers; (iii) the total amount of credit used  
33 during such month; and (iv) such other information as the  
34 Department may reasonably require. A purchaser using

1 Manufacturer's Purchase Credit shall maintain records that  
2 identify, as to each purchase of production related tangible  
3 personal property on which the purchaser used Manufacturer's  
4 Purchase Credit, the vendor (including, if applicable, either  
5 the vendor's registration number or Federal Employer  
6 Identification Number), the purchase price, and the amount of  
7 Manufacturer's Purchase Credit used on each purchase.

8 A purchaser that fails to file an annual Report of  
9 Manufacturer's Purchase Credit Earned or an annual Report of  
10 Manufacturer's Purchase Credit Used by the last day of the  
11 sixth month following the end of the calendar year shall  
12 forfeit all Manufacturer's Purchase Credit for that calendar  
13 year unless it establishes that its failure to file was due to  
14 reasonable cause. Manufacturer's Purchase Credit reports may  
15 be amended to report and claim credit on qualifying purchases  
16 not previously reported at any time before the credit would  
17 have expired, unless both the Department and the purchaser have  
18 agreed to an extension of the statute of limitations for the  
19 issuance of a notice of tax liability as provided in Section 4  
20 of the Retailers' Occupation Tax Act. If the time for  
21 assessment or refund has been extended, then amended reports  
22 for a calendar year may be filed at any time prior to the date  
23 to which the statute of limitations for the calendar year or  
24 portion thereof has been extended. Manufacturer's Purchase  
25 Credit claimed on an amended report may be used to satisfy tax  
26 liability under the Use Tax Act or the Service Use Tax Act (i)  
27 on qualifying purchases of production related tangible  
28 personal property made after the date the amended report is  
29 filed or (ii) assessed by the Department on qualifying  
30 production related tangible personal property purchased on or  
31 after September 1, 2004.

32 If the purchaser is not the manufacturer or a graphic arts  
33 producer, but rents or leases the use of the property to a  
34 manufacturer or a graphic arts producer, the purchaser may

1 earn, report, and use Manufacturer's Purchase Credit in the  
2 same manner as a manufacturer or graphic arts producer. A  
3 purchaser shall not be entitled to any Manufacturer's Purchase  
4 Credit for a purchase that is required to be reported and is  
5 not timely reported as provided in this Section. A purchaser  
6 remains liable for (i) any tax that was satisfied by use of a  
7 Manufacturer's Purchase Credit, as of the date of purchase, if  
8 that use is not timely reported as required in this Section and  
9 (ii) for any applicable penalties and interest for failing to  
10 pay the tax when due.

11 (Source: P.A. 93-24, eff. 6-20-03.)

12 Section 20-20. The Service Occupation Tax Act is amended by  
13 changing Sections 3-5 and 9 as follows:

14 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

15 Sec. 3-5. Exemptions. The following tangible personal  
16 property is exempt from the tax imposed by this Act:

17 (1) Personal property sold by a corporation, society,  
18 association, foundation, institution, or organization, other  
19 than a limited liability company, that is organized and  
20 operated as a not-for-profit service enterprise for the benefit  
21 of persons 65 years of age or older if the personal property  
22 was not purchased by the enterprise for the purpose of resale  
23 by the enterprise.

24 (2) Personal property purchased by a not-for-profit  
25 Illinois county fair association for use in conducting,  
26 operating, or promoting the county fair.

27 (3) Personal property purchased by any not-for-profit arts  
28 or cultural organization that establishes, by proof required by  
29 the Department by rule, that it has received an exemption under  
30 Section 501(c)(3) of the Internal Revenue Code and that is  
31 organized and operated primarily for the presentation or  
32 support of arts or cultural programming, activities, or

1 services. These organizations include, but are not limited to,  
2 music and dramatic arts organizations such as symphony  
3 orchestras and theatrical groups, arts and cultural service  
4 organizations, local arts councils, visual arts organizations,  
5 and media arts organizations. On and after the effective date  
6 of this amendatory Act of the 92nd General Assembly, however,  
7 an entity otherwise eligible for this exemption shall not make  
8 tax-free purchases unless it has an active identification  
9 number issued by the Department.

10 (4) Legal tender, currency, medallions, or gold or silver  
11 coinage issued by the State of Illinois, the government of the  
12 United States of America, or the government of any foreign  
13 country, and bullion.

14 (5) Until July 1, 2003 and beginning again on September 1,  
15 2004, graphic arts machinery and equipment, including repair  
16 and replacement parts, both new and used, and including that  
17 manufactured on special order or purchased for lease, certified  
18 by the purchaser to be used primarily for graphic arts  
19 production. Equipment includes chemicals or chemicals acting  
20 as catalysts but only if the chemicals or chemicals acting as  
21 catalysts effect a direct and immediate change upon a graphic  
22 arts product.

23 (6) Personal property sold by a teacher-sponsored student  
24 organization affiliated with an elementary or secondary school  
25 located in Illinois.

26 (7) Farm machinery and equipment, both new and used,  
27 including that manufactured on special order, certified by the  
28 purchaser to be used primarily for production agriculture or  
29 State or federal agricultural programs, including individual  
30 replacement parts for the machinery and equipment, including  
31 machinery and equipment purchased for lease, and including  
32 implements of husbandry defined in Section 1-130 of the  
33 Illinois Vehicle Code, farm machinery and agricultural  
34 chemical and fertilizer spreaders, and nurse wagons required to

1 be registered under Section 3-809 of the Illinois Vehicle Code,  
2 but excluding other motor vehicles required to be registered  
3 under the Illinois Vehicle Code. Horticultural polyhouses or  
4 hoop houses used for propagating, growing, or overwintering  
5 plants shall be considered farm machinery and equipment under  
6 this item (7). Agricultural chemical tender tanks and dry boxes  
7 shall include units sold separately from a motor vehicle  
8 required to be licensed and units sold mounted on a motor  
9 vehicle required to be licensed if the selling price of the  
10 tender is separately stated.

11 Farm machinery and equipment shall include precision  
12 farming equipment that is installed or purchased to be  
13 installed on farm machinery and equipment including, but not  
14 limited to, tractors, harvesters, sprayers, planters, seeders,  
15 or spreaders. Precision farming equipment includes, but is not  
16 limited to, soil testing sensors, computers, monitors,  
17 software, global positioning and mapping systems, and other  
18 such equipment.

19 Farm machinery and equipment also includes computers,  
20 sensors, software, and related equipment used primarily in the  
21 computer-assisted operation of production agriculture  
22 facilities, equipment, and activities such as, but not limited  
23 to, the collection, monitoring, and correlation of animal and  
24 crop data for the purpose of formulating animal diets and  
25 agricultural chemicals. This item (7) is exempt from the  
26 provisions of Section 3-55.

27 (8) Fuel and petroleum products sold to or used by an air  
28 common carrier, certified by the carrier to be used for  
29 consumption, shipment, or storage in the conduct of its  
30 business as an air common carrier, for a flight destined for or  
31 returning from a location or locations outside the United  
32 States without regard to previous or subsequent domestic  
33 stopovers.

34 (9) Proceeds of mandatory service charges separately

1 stated on customers' bills for the purchase and consumption of  
2 food and beverages, to the extent that the proceeds of the  
3 service charge are in fact turned over as tips or as a  
4 substitute for tips to the employees who participate directly  
5 in preparing, serving, hosting or cleaning up the food or  
6 beverage function with respect to which the service charge is  
7 imposed.

8 (10) Until July 1, 2003, oil field exploration, drilling,  
9 and production equipment, including (i) rigs and parts of rigs,  
10 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
11 tubular goods, including casing and drill strings, (iii) pumps  
12 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
13 individual replacement part for oil field exploration,  
14 drilling, and production equipment, and (vi) machinery and  
15 equipment purchased for lease; but excluding motor vehicles  
16 required to be registered under the Illinois Vehicle Code.

17 (11) Photoprocessing machinery and equipment, including  
18 repair and replacement parts, both new and used, including that  
19 manufactured on special order, certified by the purchaser to be  
20 used primarily for photoprocessing, and including  
21 photoprocessing machinery and equipment purchased for lease.

22 (12) Until July 1, 2003, coal exploration, mining,  
23 offhighway hauling, processing, maintenance, and reclamation  
24 equipment, including replacement parts and equipment, and  
25 including equipment purchased for lease, but excluding motor  
26 vehicles required to be registered under the Illinois Vehicle  
27 Code.

28 (13) Food for human consumption that is to be consumed off  
29 the premises where it is sold (other than alcoholic beverages,  
30 soft drinks and food that has been prepared for immediate  
31 consumption) and prescription and non-prescription medicines,  
32 drugs, medical appliances, and insulin, urine testing  
33 materials, syringes, and needles used by diabetics, for human  
34 use, when purchased for use by a person receiving medical



1 assistance under Article 5 of the Illinois Public Aid Code who  
2 resides in a licensed long-term care facility, as defined in  
3 the Nursing Home Care Act.

4 (14) Semen used for artificial insemination of livestock  
5 for direct agricultural production.

6 (15) Horses, or interests in horses, registered with and  
7 meeting the requirements of any of the Arabian Horse Club  
8 Registry of America, Appaloosa Horse Club, American Quarter  
9 Horse Association, United States Trotting Association, or  
10 Jockey Club, as appropriate, used for purposes of breeding or  
11 racing for prizes.

12 (16) Computers and communications equipment utilized for  
13 any hospital purpose and equipment used in the diagnosis,  
14 analysis, or treatment of hospital patients sold to a lessor  
15 who leases the equipment, under a lease of one year or longer  
16 executed or in effect at the time of the purchase, to a  
17 hospital that has been issued an active tax exemption  
18 identification number by the Department under Section 1g of the  
19 Retailers' Occupation Tax Act.

20 (17) Personal property sold to a lessor who leases the  
21 property, under a lease of one year or longer executed or in  
22 effect at the time of the purchase, to a governmental body that  
23 has been issued an active tax exemption identification number  
24 by the Department under Section 1g of the Retailers' Occupation  
25 Tax Act.

26 (18) Beginning with taxable years ending on or after  
27 December 31, 1995 and ending with taxable years ending on or  
28 before December 31, 2004, personal property that is donated for  
29 disaster relief to be used in a State or federally declared  
30 disaster area in Illinois or bordering Illinois by a  
31 manufacturer or retailer that is registered in this State to a  
32 corporation, society, association, foundation, or institution  
33 that has been issued a sales tax exemption identification  
34 number by the Department that assists victims of the disaster

1 who reside within the declared disaster area.

2 (19) Beginning with taxable years ending on or after  
3 December 31, 1995 and ending with taxable years ending on or  
4 before December 31, 2004, personal property that is used in the  
5 performance of infrastructure repairs in this State, including  
6 but not limited to municipal roads and streets, access roads,  
7 bridges, sidewalks, waste disposal systems, water and sewer  
8 line extensions, water distribution and purification  
9 facilities, storm water drainage and retention facilities, and  
10 sewage treatment facilities, resulting from a State or  
11 federally declared disaster in Illinois or bordering Illinois  
12 when such repairs are initiated on facilities located in the  
13 declared disaster area within 6 months after the disaster.

14 (20) Beginning July 1, 1999, game or game birds sold at a  
15 "game breeding and hunting preserve area" or an "exotic game  
16 hunting area" as those terms are used in the Wildlife Code or  
17 at a hunting enclosure approved through rules adopted by the  
18 Department of Natural Resources. This paragraph is exempt from  
19 the provisions of Section 3-55.

20 (21) A motor vehicle, as that term is defined in Section  
21 1-146 of the Illinois Vehicle Code, that is donated to a  
22 corporation, limited liability company, society, association,  
23 foundation, or institution that is determined by the Department  
24 to be organized and operated exclusively for educational  
25 purposes. For purposes of this exemption, "a corporation,  
26 limited liability company, society, association, foundation,  
27 or institution organized and operated exclusively for  
28 educational purposes" means all tax-supported public schools,  
29 private schools that offer systematic instruction in useful  
30 branches of learning by methods common to public schools and  
31 that compare favorably in their scope and intensity with the  
32 course of study presented in tax-supported schools, and  
33 vocational or technical schools or institutes organized and  
34 operated exclusively to provide a course of study of not less

1 than 6 weeks duration and designed to prepare individuals to  
2 follow a trade or to pursue a manual, technical, mechanical,  
3 industrial, business, or commercial occupation.

4 (22) Beginning January 1, 2000, personal property,  
5 including food, purchased through fundraising events for the  
6 benefit of a public or private elementary or secondary school,  
7 a group of those schools, or one or more school districts if  
8 the events are sponsored by an entity recognized by the school  
9 district that consists primarily of volunteers and includes  
10 parents and teachers of the school children. This paragraph  
11 does not apply to fundraising events (i) for the benefit of  
12 private home instruction or (ii) for which the fundraising  
13 entity purchases the personal property sold at the events from  
14 another individual or entity that sold the property for the  
15 purpose of resale by the fundraising entity and that profits  
16 from the sale to the fundraising entity. This paragraph is  
17 exempt from the provisions of Section 3-55.

18 (23) Beginning January 1, 2000 and through December 31,  
19 2001, new or used automatic vending machines that prepare and  
20 serve hot food and beverages, including coffee, soup, and other  
21 items, and replacement parts for these machines. Beginning  
22 January 1, 2002 and through June 30, 2003, machines and parts  
23 for machines used in commercial, coin-operated amusement and  
24 vending business if a use or occupation tax is paid on the  
25 gross receipts derived from the use of the commercial,  
26 coin-operated amusement and vending machines. This paragraph  
27 is exempt from the provisions of Section 3-55.

28 (24) Beginning on the effective date of this amendatory Act  
29 of the 92nd General Assembly, computers and communications  
30 equipment utilized for any hospital purpose and equipment used  
31 in the diagnosis, analysis, or treatment of hospital patients  
32 sold to a lessor who leases the equipment, under a lease of one  
33 year or longer executed or in effect at the time of the  
34 purchase, to a hospital that has been issued an active tax

1 exemption identification number by the Department under  
2 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
3 is exempt from the provisions of Section 3-55.

4 (25) Beginning on the effective date of this amendatory Act  
5 of the 92nd General Assembly, personal property sold to a  
6 lessor who leases the property, under a lease of one year or  
7 longer executed or in effect at the time of the purchase, to a  
8 governmental body that has been issued an active tax exemption  
9 identification number by the Department under Section 1g of the  
10 Retailers' Occupation Tax Act. This paragraph is exempt from  
11 the provisions of Section 3-55.

12 (26) Beginning on January 1, 2002, tangible personal  
13 property purchased from an Illinois retailer by a taxpayer  
14 engaged in centralized purchasing activities in Illinois who  
15 will, upon receipt of the property in Illinois, temporarily  
16 store the property in Illinois (i) for the purpose of  
17 subsequently transporting it outside this State for use or  
18 consumption thereafter solely outside this State or (ii) for  
19 the purpose of being processed, fabricated, or manufactured  
20 into, attached to, or incorporated into other tangible personal  
21 property to be transported outside this State and thereafter  
22 used or consumed solely outside this State. The Director of  
23 Revenue shall, pursuant to rules adopted in accordance with the  
24 Illinois Administrative Procedure Act, issue a permit to any  
25 taxpayer in good standing with the Department who is eligible  
26 for the exemption under this paragraph (26). The permit issued  
27 under this paragraph (26) shall authorize the holder, to the  
28 extent and in the manner specified in the rules adopted under  
29 this Act, to purchase tangible personal property from a  
30 retailer exempt from the taxes imposed by this Act. Taxpayers  
31 shall maintain all necessary books and records to substantiate  
32 the use and consumption of all such tangible personal property  
33 outside of the State of Illinois.

34 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,

1 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
2 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.  
3 6-20-03.)

4 (35 ILCS 115/9) (from Ch. 120, par. 439.109)

5 Sec. 9. Each serviceman required or authorized to collect  
6 the tax herein imposed shall pay to the Department the amount  
7 of such tax at the time when he is required to file his return  
8 for the period during which such tax was collectible, less a  
9 discount of 2.1% prior to January 1, 1990, and 1.75% on and  
10 after January 1, 1990, or \$5 per calendar year, whichever is  
11 greater, which is allowed to reimburse the serviceman for  
12 expenses incurred in collecting the tax, keeping records,  
13 preparing and filing returns, remitting the tax and supplying  
14 data to the Department on request.

15 Where such tangible personal property is sold under a  
16 conditional sales contract, or under any other form of sale  
17 wherein the payment of the principal sum, or a part thereof, is  
18 extended beyond the close of the period for which the return is  
19 filed, the serviceman, in collecting the tax may collect, for  
20 each tax return period, only the tax applicable to the part of  
21 the selling price actually received during such tax return  
22 period.

23 Except as provided hereinafter in this Section, on or  
24 before the twentieth day of each calendar month, such  
25 serviceman shall file a return for the preceding calendar month  
26 in accordance with reasonable rules and regulations to be  
27 promulgated by the Department of Revenue. Such return shall be  
28 filed on a form prescribed by the Department and shall contain  
29 such information as the Department may reasonably require.

30 The Department may require returns to be filed on a  
31 quarterly basis. If so required, a return for each calendar  
32 quarter shall be filed on or before the twentieth day of the  
33 calendar month following the end of such calendar quarter. The

1 taxpayer shall also file a return with the Department for each  
2 of the first two months of each calendar quarter, on or before  
3 the twentieth day of the following calendar month, stating:

4 1. The name of the seller;

5 2. The address of the principal place of business from  
6 which he engages in business as a serviceman in this State;

7 3. The total amount of taxable receipts received by him  
8 during the preceding calendar month, including receipts  
9 from charge and time sales, but less all deductions allowed  
10 by law;

11 4. The amount of credit provided in Section 2d of this  
12 Act;

13 5. The amount of tax due;

14 5-5. The signature of the taxpayer; and

15 6. Such other reasonable information as the Department  
16 may require.

17 If a taxpayer fails to sign a return within 30 days after  
18 the proper notice and demand for signature by the Department,  
19 the return shall be considered valid and any amount shown to be  
20 due on the return shall be deemed assessed.

21 Prior to October 1, 2003, and on and after September 1,  
22 2004 a serviceman may accept a Manufacturer's Purchase Credit  
23 certification from a purchaser in satisfaction of Service Use  
24 Tax as provided in Section 3-70 of the Service Use Tax Act if  
25 the purchaser provides the appropriate documentation as  
26 required by Section 3-70 of the Service Use Tax Act. A  
27 Manufacturer's Purchase Credit certification, accepted prior  
28 to October 1, 2003 or on or after September 1, 2004 by a  
29 serviceman as provided in Section 3-70 of the Service Use Tax  
30 Act, may be used by that serviceman to satisfy Service  
31 Occupation Tax liability in the amount claimed in the  
32 certification, not to exceed 6.25% of the receipts subject to  
33 tax from a qualifying purchase. A Manufacturer's Purchase  
34 Credit reported on any original or amended return filed under

1 this Act after October 20, 2003 for reporting periods prior to  
2 September 1, 2004 shall be disallowed. Manufacturer's Purchase  
3 Credit reported on annual returns due on or after January 1,  
4 2005 will be disallowed for periods prior to September 1, 2004.

5 No Manufacturer's Purchase Credit may be used after September  
6 30, 2003 through August 31, 2004 to satisfy any tax liability  
7 imposed under this Act, including any audit liability.

8 If the serviceman's average monthly tax liability to the  
9 Department does not exceed \$200, the Department may authorize  
10 his returns to be filed on a quarter annual basis, with the  
11 return for January, February and March of a given year being  
12 due by April 20 of such year; with the return for April, May  
13 and June of a given year being due by July 20 of such year; with  
14 the return for July, August and September of a given year being  
15 due by October 20 of such year, and with the return for  
16 October, November and December of a given year being due by  
17 January 20 of the following year.

18 If the serviceman's average monthly tax liability to the  
19 Department does not exceed \$50, the Department may authorize  
20 his returns to be filed on an annual basis, with the return for  
21 a given year being due by January 20 of the following year.

22 Such quarter annual and annual returns, as to form and  
23 substance, shall be subject to the same requirements as monthly  
24 returns.

25 Notwithstanding any other provision in this Act concerning  
26 the time within which a serviceman may file his return, in the  
27 case of any serviceman who ceases to engage in a kind of  
28 business which makes him responsible for filing returns under  
29 this Act, such serviceman shall file a final return under this  
30 Act with the Department not more than 1 month after  
31 discontinuing such business.

32 Beginning October 1, 1993, a taxpayer who has an average  
33 monthly tax liability of \$150,000 or more shall make all  
34 payments required by rules of the Department by electronic

1 funds transfer. Beginning October 1, 1994, a taxpayer who has  
2 an average monthly tax liability of \$100,000 or more shall make  
3 all payments required by rules of the Department by electronic  
4 funds transfer. Beginning October 1, 1995, a taxpayer who has  
5 an average monthly tax liability of \$50,000 or more shall make  
6 all payments required by rules of the Department by electronic  
7 funds transfer. Beginning October 1, 2000, a taxpayer who has  
8 an annual tax liability of \$200,000 or more shall make all  
9 payments required by rules of the Department by electronic  
10 funds transfer. The term "annual tax liability" shall be the  
11 sum of the taxpayer's liabilities under this Act, and under all  
12 other State and local occupation and use tax laws administered  
13 by the Department, for the immediately preceding calendar year.  
14 The term "average monthly tax liability" means the sum of the  
15 taxpayer's liabilities under this Act, and under all other  
16 State and local occupation and use tax laws administered by the  
17 Department, for the immediately preceding calendar year  
18 divided by 12. Beginning on October 1, 2002, a taxpayer who has  
19 a tax liability in the amount set forth in subsection (b) of  
20 Section 2505-210 of the Department of Revenue Law shall make  
21 all payments required by rules of the Department by electronic  
22 funds transfer.

23 Before August 1 of each year beginning in 1993, the  
24 Department shall notify all taxpayers required to make payments  
25 by electronic funds transfer. All taxpayers required to make  
26 payments by electronic funds transfer shall make those payments  
27 for a minimum of one year beginning on October 1.

28 Any taxpayer not required to make payments by electronic  
29 funds transfer may make payments by electronic funds transfer  
30 with the permission of the Department.

31 All taxpayers required to make payment by electronic funds  
32 transfer and any taxpayers authorized to voluntarily make  
33 payments by electronic funds transfer shall make those payments  
34 in the manner authorized by the Department.



1           The Department shall adopt such rules as are necessary to  
2 effectuate a program of electronic funds transfer and the  
3 requirements of this Section.

4           Where a serviceman collects the tax with respect to the  
5 selling price of tangible personal property which he sells and  
6 the purchaser thereafter returns such tangible personal  
7 property and the serviceman refunds the selling price thereof  
8 to the purchaser, such serviceman shall also refund, to the  
9 purchaser, the tax so collected from the purchaser. When filing  
10 his return for the period in which he refunds such tax to the  
11 purchaser, the serviceman may deduct the amount of the tax so  
12 refunded by him to the purchaser from any other Service  
13 Occupation Tax, Service Use Tax, Retailers' Occupation Tax or  
14 Use Tax which such serviceman may be required to pay or remit  
15 to the Department, as shown by such return, provided that the  
16 amount of the tax to be deducted shall previously have been  
17 remitted to the Department by such serviceman. If the  
18 serviceman shall not previously have remitted the amount of  
19 such tax to the Department, he shall be entitled to no  
20 deduction hereunder upon refunding such tax to the purchaser.

21           If experience indicates such action to be practicable, the  
22 Department may prescribe and furnish a combination or joint  
23 return which will enable servicemen, who are required to file  
24 returns hereunder and also under the Retailers' Occupation Tax  
25 Act, the Use Tax Act or the Service Use Tax Act, to furnish all  
26 the return information required by all said Acts on the one  
27 form.

28           Where the serviceman has more than one business registered  
29 with the Department under separate registrations hereunder,  
30 such serviceman shall file separate returns for each registered  
31 business.

32           Beginning January 1, 1990, each month the Department shall  
33 pay into the Local Government Tax Fund the revenue realized for  
34 the preceding month from the 1% tax on sales of food for human

1 consumption which is to be consumed off the premises where it  
2 is sold (other than alcoholic beverages, soft drinks and food  
3 which has been prepared for immediate consumption) and  
4 prescription and nonprescription medicines, drugs, medical  
5 appliances and insulin, urine testing materials, syringes and  
6 needles used by diabetics.

7 Beginning January 1, 1990, each month the Department shall  
8 pay into the County and Mass Transit District Fund 4% of the  
9 revenue realized for the preceding month from the 6.25% general  
10 rate.

11 Beginning August 1, 2000, each month the Department shall  
12 pay into the County and Mass Transit District Fund 20% of the  
13 net revenue realized for the preceding month from the 1.25%  
14 rate on the selling price of motor fuel and gasohol.

15 Beginning January 1, 1990, each month the Department shall  
16 pay into the Local Government Tax Fund 16% of the revenue  
17 realized for the preceding month from the 6.25% general rate on  
18 transfers of tangible personal property.

19 Beginning August 1, 2000, each month the Department shall  
20 pay into the Local Government Tax Fund 80% of the net revenue  
21 realized for the preceding month from the 1.25% rate on the  
22 selling price of motor fuel and gasohol.

23 Of the remainder of the moneys received by the Department  
24 pursuant to this Act, (a) 1.75% thereof shall be paid into the  
25 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on  
26 and after July 1, 1989, 3.8% thereof shall be paid into the  
27 Build Illinois Fund; provided, however, that if in any fiscal  
28 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case  
29 may be, of the moneys received by the Department and required  
30 to be paid into the Build Illinois Fund pursuant to Section 3  
31 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax  
32 Act, Section 9 of the Service Use Tax Act, and Section 9 of the  
33 Service Occupation Tax Act, such Acts being hereinafter called  
34 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case

1 may be, of moneys being hereinafter called the "Tax Act  
2 Amount", and (2) the amount transferred to the Build Illinois  
3 Fund from the State and Local Sales Tax Reform Fund shall be  
4 less than the Annual Specified Amount (as defined in Section 3  
5 of the Retailers' Occupation Tax Act), an amount equal to the  
6 difference shall be immediately paid into the Build Illinois  
7 Fund from other moneys received by the Department pursuant to  
8 the Tax Acts; and further provided, that if on the last  
9 business day of any month the sum of (1) the Tax Act Amount  
10 required to be deposited into the Build Illinois Account in the  
11 Build Illinois Fund during such month and (2) the amount  
12 transferred during such month to the Build Illinois Fund from  
13 the State and Local Sales Tax Reform Fund shall have been less  
14 than 1/12 of the Annual Specified Amount, an amount equal to  
15 the difference shall be immediately paid into the Build  
16 Illinois Fund from other moneys received by the Department  
17 pursuant to the Tax Acts; and, further provided, that in no  
18 event shall the payments required under the preceding proviso  
19 result in aggregate payments into the Build Illinois Fund  
20 pursuant to this clause (b) for any fiscal year in excess of  
21 the greater of (i) the Tax Act Amount or (ii) the Annual  
22 Specified Amount for such fiscal year; and, further provided,  
23 that the amounts payable into the Build Illinois Fund under  
24 this clause (b) shall be payable only until such time as the  
25 aggregate amount on deposit under each trust indenture securing  
26 Bonds issued and outstanding pursuant to the Build Illinois  
27 Bond Act is sufficient, taking into account any future  
28 investment income, to fully provide, in accordance with such  
29 indenture, for the defeasance of or the payment of the  
30 principal of, premium, if any, and interest on the Bonds  
31 secured by such indenture and on any Bonds expected to be  
32 issued thereafter and all fees and costs payable with respect  
33 thereto, all as certified by the Director of the Bureau of the  
34 Budget (now Governor's Office of Management and Budget). If on

1 the last business day of any month in which Bonds are  
 2 outstanding pursuant to the Build Illinois Bond Act, the  
 3 aggregate of the moneys deposited in the Build Illinois Bond  
 4 Account in the Build Illinois Fund in such month shall be less  
 5 than the amount required to be transferred in such month from  
 6 the Build Illinois Bond Account to the Build Illinois Bond  
 7 Retirement and Interest Fund pursuant to Section 13 of the  
 8 Build Illinois Bond Act, an amount equal to such deficiency  
 9 shall be immediately paid from other moneys received by the  
 10 Department pursuant to the Tax Acts to the Build Illinois Fund;  
 11 provided, however, that any amounts paid to the Build Illinois  
 12 Fund in any fiscal year pursuant to this sentence shall be  
 13 deemed to constitute payments pursuant to clause (b) of the  
 14 preceding sentence and shall reduce the amount otherwise  
 15 payable for such fiscal year pursuant to clause (b) of the  
 16 preceding sentence. The moneys received by the Department  
 17 pursuant to this Act and required to be deposited into the  
 18 Build Illinois Fund are subject to the pledge, claim and charge  
 19 set forth in Section 12 of the Build Illinois Bond Act.

20 Subject to payment of amounts into the Build Illinois Fund  
 21 as provided in the preceding paragraph or in any amendment  
 22 thereto hereafter enacted, the following specified monthly  
 23 installment of the amount requested in the certificate of the  
 24 Chairman of the Metropolitan Pier and Exposition Authority  
 25 provided under Section 8.25f of the State Finance Act, but not  
 26 in excess of the sums designated as "Total Deposit", shall be  
 27 deposited in the aggregate from collections under Section 9 of  
 28 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
 29 9 of the Service Occupation Tax Act, and Section 3 of the  
 30 Retailers' Occupation Tax Act into the McCormick Place  
 31 Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0

1	1994	53,000,000
2	1995	58,000,000
3	1996	61,000,000
4	1997	64,000,000
5	1998	68,000,000
6	1999	71,000,000
7	2000	75,000,000
8	2001	80,000,000
9	2002	93,000,000
10	2003	99,000,000
11	2004	103,000,000
12	2005	108,000,000
13	2006	113,000,000
14	2007	119,000,000
15	2008	126,000,000
16	2009	132,000,000
17	2010	139,000,000
18	2011	146,000,000
19	2012	153,000,000
20	2013	161,000,000
21	2014	170,000,000
22	2015	179,000,000
23	2016	189,000,000
24	2017	199,000,000
25	2018	210,000,000
26	2019	221,000,000
27	2020	233,000,000
28	2021	246,000,000
29	2022	260,000,000
30	2023 and	275,000,000

31 each fiscal year  
32 thereafter that bonds  
33 are outstanding under  
34 Section 13.2 of the

1 Metropolitan Pier and  
2 Exposition Authority Act,  
3 but not after fiscal year 2042.

4 Beginning July 20, 1993 and in each month of each fiscal  
5 year thereafter, one-eighth of the amount requested in the  
6 certificate of the Chairman of the Metropolitan Pier and  
7 Exposition Authority for that fiscal year, less the amount  
8 deposited into the McCormick Place Expansion Project Fund by  
9 the State Treasurer in the respective month under subsection  
10 (g) of Section 13 of the Metropolitan Pier and Exposition  
11 Authority Act, plus cumulative deficiencies in the deposits  
12 required under this Section for previous months and years,  
13 shall be deposited into the McCormick Place Expansion Project  
14 Fund, until the full amount requested for the fiscal year, but  
15 not in excess of the amount specified above as "Total Deposit",  
16 has been deposited.

17 Subject to payment of amounts into the Build Illinois Fund  
18 and the McCormick Place Expansion Project Fund pursuant to the  
19 preceding paragraphs or in any amendments thereto hereafter  
20 enacted, beginning July 1, 1993, the Department shall each  
21 month pay into the Illinois Tax Increment Fund 0.27% of 80% of  
22 the net revenue realized for the preceding month from the 6.25%  
23 general rate on the selling price of tangible personal  
24 property.

25 Subject to payment of amounts into the Build Illinois Fund  
26 and the McCormick Place Expansion Project Fund pursuant to the  
27 preceding paragraphs or in any amendments thereto hereafter  
28 enacted, beginning with the receipt of the first report of  
29 taxes paid by an eligible business and continuing for a 25-year  
30 period, the Department shall each month pay into the Energy  
31 Infrastructure Fund 80% of the net revenue realized from the  
32 6.25% general rate on the selling price of Illinois-mined coal  
33 that was sold to an eligible business. For purposes of this  
34 paragraph, the term "eligible business" means a new electric

1 generating facility certified pursuant to Section 605-332 of  
2 the Department of Commerce and Economic Opportunity ~~Community~~  
3 ~~Affairs~~ Law of the Civil Administrative Code of Illinois.

4 Remaining moneys received by the Department pursuant to  
5 this Act shall be paid into the General Revenue Fund of the  
6 State Treasury.

7 The Department may, upon separate written notice to a  
8 taxpayer, require the taxpayer to prepare and file with the  
9 Department on a form prescribed by the Department within not  
10 less than 60 days after receipt of the notice an annual  
11 information return for the tax year specified in the notice.  
12 Such annual return to the Department shall include a statement  
13 of gross receipts as shown by the taxpayer's last Federal  
14 income tax return. If the total receipts of the business as  
15 reported in the Federal income tax return do not agree with the  
16 gross receipts reported to the Department of Revenue for the  
17 same period, the taxpayer shall attach to his annual return a  
18 schedule showing a reconciliation of the 2 amounts and the  
19 reasons for the difference. The taxpayer's annual return to the  
20 Department shall also disclose the cost of goods sold by the  
21 taxpayer during the year covered by such return, opening and  
22 closing inventories of such goods for such year, cost of goods  
23 used from stock or taken from stock and given away by the  
24 taxpayer during such year, pay roll information of the  
25 taxpayer's business during such year and any additional  
26 reasonable information which the Department deems would be  
27 helpful in determining the accuracy of the monthly, quarterly  
28 or annual returns filed by such taxpayer as hereinbefore  
29 provided for in this Section.

30 If the annual information return required by this Section  
31 is not filed when and as required, the taxpayer shall be liable  
32 as follows:

33 (i) Until January 1, 1994, the taxpayer shall be liable  
34 for a penalty equal to 1/6 of 1% of the tax due from such

1 taxpayer under this Act during the period to be covered by  
2 the annual return for each month or fraction of a month  
3 until such return is filed as required, the penalty to be  
4 assessed and collected in the same manner as any other  
5 penalty provided for in this Act.

6 (ii) On and after January 1, 1994, the taxpayer shall  
7 be liable for a penalty as described in Section 3-4 of the  
8 Uniform Penalty and Interest Act.

9 The chief executive officer, proprietor, owner or highest  
10 ranking manager shall sign the annual return to certify the  
11 accuracy of the information contained therein. Any person who  
12 willfully signs the annual return containing false or  
13 inaccurate information shall be guilty of perjury and punished  
14 accordingly. The annual return form prescribed by the  
15 Department shall include a warning that the person signing the  
16 return may be liable for perjury.

17 The foregoing portion of this Section concerning the filing  
18 of an annual information return shall not apply to a serviceman  
19 who is not required to file an income tax return with the  
20 United States Government.

21 As soon as possible after the first day of each month, upon  
22 certification of the Department of Revenue, the Comptroller  
23 shall order transferred and the Treasurer shall transfer from  
24 the General Revenue Fund to the Motor Fuel Tax Fund an amount  
25 equal to 1.7% of 80% of the net revenue realized under this Act  
26 for the second preceding month. Beginning April 1, 2000, this  
27 transfer is no longer required and shall not be made.

28 Net revenue realized for a month shall be the revenue  
29 collected by the State pursuant to this Act, less the amount  
30 paid out during that month as refunds to taxpayers for  
31 overpayment of liability.

32 For greater simplicity of administration, it shall be  
33 permissible for manufacturers, importers and wholesalers whose  
34 products are sold by numerous servicemen in Illinois, and who



1 wish to do so, to assume the responsibility for accounting and  
2 paying to the Department all tax accruing under this Act with  
3 respect to such sales, if the servicemen who are affected do  
4 not make written objection to the Department to this  
5 arrangement.

6 (Source: P.A. 92-12, eff. 7-1-01; 92-208, eff. 8-2-01; 92-492,  
7 eff. 1-1-02; 92-600, eff. 6-28-02; 92-651, eff. 7-11-02; 93-24,  
8 eff. 6-20-03; revised 10-15-03.)

9 Section 20-25. The Retailers' Occupation Tax Act is amended  
10 by changing Sections 2-5 and 3 as follows:

11 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

12 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
13 sale of the following tangible personal property are exempt  
14 from the tax imposed by this Act:

15 (1) Farm chemicals.

16 (2) Farm machinery and equipment, both new and used,  
17 including that manufactured on special order, certified by the  
18 purchaser to be used primarily for production agriculture or  
19 State or federal agricultural programs, including individual  
20 replacement parts for the machinery and equipment, including  
21 machinery and equipment purchased for lease, and including  
22 implements of husbandry defined in Section 1-130 of the  
23 Illinois Vehicle Code, farm machinery and agricultural  
24 chemical and fertilizer spreaders, and nurse wagons required to  
25 be registered under Section 3-809 of the Illinois Vehicle Code,  
26 but excluding other motor vehicles required to be registered  
27 under the Illinois Vehicle Code. Horticultural polyhouses or  
28 hoop houses used for propagating, growing, or overwintering  
29 plants shall be considered farm machinery and equipment under  
30 this item (2). Agricultural chemical tender tanks and dry boxes  
31 shall include units sold separately from a motor vehicle  
32 required to be licensed and units sold mounted on a motor

1 vehicle required to be licensed, if the selling price of the  
2 tender is separately stated.

3 Farm machinery and equipment shall include precision  
4 farming equipment that is installed or purchased to be  
5 installed on farm machinery and equipment including, but not  
6 limited to, tractors, harvesters, sprayers, planters, seeders,  
7 or spreaders. Precision farming equipment includes, but is not  
8 limited to, soil testing sensors, computers, monitors,  
9 software, global positioning and mapping systems, and other  
10 such equipment.

11 Farm machinery and equipment also includes computers,  
12 sensors, software, and related equipment used primarily in the  
13 computer-assisted operation of production agriculture  
14 facilities, equipment, and activities such as, but not limited  
15 to, the collection, monitoring, and correlation of animal and  
16 crop data for the purpose of formulating animal diets and  
17 agricultural chemicals. This item (7) is exempt from the  
18 provisions of Section 2-70.

19 (3) Until July 1, 2003, distillation machinery and  
20 equipment, sold as a unit or kit, assembled or installed by the  
21 retailer, certified by the user to be used only for the  
22 production of ethyl alcohol that will be used for consumption  
23 as motor fuel or as a component of motor fuel for the personal  
24 use of the user, and not subject to sale or resale.

25 (4) Until July 1, 2003 and beginning again September 1,  
26 2004, graphic arts machinery and equipment, including repair  
27 and replacement parts, both new and used, and including that  
28 manufactured on special order or purchased for lease, certified  
29 by the purchaser to be used primarily for graphic arts  
30 production. Equipment includes chemicals or chemicals acting  
31 as catalysts but only if the chemicals or chemicals acting as  
32 catalysts effect a direct and immediate change upon a graphic  
33 arts product.

34 (5) A motor vehicle of the first division, a motor vehicle

1 of the second division that is a self-contained motor vehicle  
2 designed or permanently converted to provide living quarters  
3 for recreational, camping, or travel use, with direct walk  
4 through access to the living quarters from the driver's seat,  
5 or a motor vehicle of the second division that is of the van  
6 configuration designed for the transportation of not less than  
7 7 nor more than 16 passengers, as defined in Section 1-146 of  
8 the Illinois Vehicle Code, that is used for automobile renting,  
9 as defined in the Automobile Renting Occupation and Use Tax  
10 Act.

11 (6) Personal property sold by a teacher-sponsored student  
12 organization affiliated with an elementary or secondary school  
13 located in Illinois.

14 (7) Until July 1, 2003, proceeds of that portion of the  
15 selling price of a passenger car the sale of which is subject  
16 to the Replacement Vehicle Tax.

17 (8) Personal property sold to an Illinois county fair  
18 association for use in conducting, operating, or promoting the  
19 county fair.

20 (9) Personal property sold to a not-for-profit arts or  
21 cultural organization that establishes, by proof required by  
22 the Department by rule, that it has received an exemption under  
23 Section 501(c)(3) of the Internal Revenue Code and that is  
24 organized and operated primarily for the presentation or  
25 support of arts or cultural programming, activities, or  
26 services. These organizations include, but are not limited to,  
27 music and dramatic arts organizations such as symphony  
28 orchestras and theatrical groups, arts and cultural service  
29 organizations, local arts councils, visual arts organizations,  
30 and media arts organizations. On and after the effective date  
31 of this amendatory Act of the 92nd General Assembly, however,  
32 an entity otherwise eligible for this exemption shall not make  
33 tax-free purchases unless it has an active identification  
34 number issued by the Department.

1           (10) Personal property sold by a corporation, society,  
2 association, foundation, institution, or organization, other  
3 than a limited liability company, that is organized and  
4 operated as a not-for-profit service enterprise for the benefit  
5 of persons 65 years of age or older if the personal property  
6 was not purchased by the enterprise for the purpose of resale  
7 by the enterprise.

8           (11) Personal property sold to a governmental body, to a  
9 corporation, society, association, foundation, or institution  
10 organized and operated exclusively for charitable, religious,  
11 or educational purposes, or to a not-for-profit corporation,  
12 society, association, foundation, institution, or organization  
13 that has no compensated officers or employees and that is  
14 organized and operated primarily for the recreation of persons  
15 55 years of age or older. A limited liability company may  
16 qualify for the exemption under this paragraph only if the  
17 limited liability company is organized and operated  
18 exclusively for educational purposes. On and after July 1,  
19 1987, however, no entity otherwise eligible for this exemption  
20 shall make tax-free purchases unless it has an active  
21 identification number issued by the Department.

22           (12) Tangible personal property sold to interstate  
23 carriers for hire for use as rolling stock moving in interstate  
24 commerce or to lessors under leases of one year or longer  
25 executed or in effect at the time of purchase by interstate  
26 carriers for hire for use as rolling stock moving in interstate  
27 commerce and equipment operated by a telecommunications  
28 provider, licensed as a common carrier by the Federal  
29 Communications Commission, which is permanently installed in  
30 or affixed to aircraft moving in interstate commerce.

31           (12-5) On and after July 1, 2003, motor vehicles of the  
32 second division with a gross vehicle weight in excess of 8,000  
33 pounds that are subject to the commercial distribution fee  
34 imposed under Section 3-815.1 of the Illinois Vehicle Code.

1 This exemption applies to repair and replacement parts added  
2 after the initial purchase of such a motor vehicle if that  
3 motor vehicle is used in a manner that would qualify for the  
4 rolling stock exemption otherwise provided for in this Act.

5 (13) Proceeds from sales to owners, lessors, or shippers of  
6 tangible personal property that is utilized by interstate  
7 carriers for hire for use as rolling stock moving in interstate  
8 commerce and equipment operated by a telecommunications  
9 provider, licensed as a common carrier by the Federal  
10 Communications Commission, which is permanently installed in  
11 or affixed to aircraft moving in interstate commerce.

12 (14) Machinery and equipment that will be used by the  
13 purchaser, or a lessee of the purchaser, primarily in the  
14 process of manufacturing or assembling tangible personal  
15 property for wholesale or retail sale or lease, whether the  
16 sale or lease is made directly by the manufacturer or by some  
17 other person, whether the materials used in the process are  
18 owned by the manufacturer or some other person, or whether the  
19 sale or lease is made apart from or as an incident to the  
20 seller's engaging in the service occupation of producing  
21 machines, tools, dies, jigs, patterns, gauges, or other similar  
22 items of no commercial value on special order for a particular  
23 purchaser.

24 (15) Proceeds of mandatory service charges separately  
25 stated on customers' bills for purchase and consumption of food  
26 and beverages, to the extent that the proceeds of the service  
27 charge are in fact turned over as tips or as a substitute for  
28 tips to the employees who participate directly in preparing,  
29 serving, hosting or cleaning up the food or beverage function  
30 with respect to which the service charge is imposed.

31 (16) Petroleum products sold to a purchaser if the seller  
32 is prohibited by federal law from charging tax to the  
33 purchaser.

34 (17) Tangible personal property sold to a common carrier by

1 rail or motor that receives the physical possession of the  
2 property in Illinois and that transports the property, or  
3 shares with another common carrier in the transportation of the  
4 property, out of Illinois on a standard uniform bill of lading  
5 showing the seller of the property as the shipper or consignor  
6 of the property to a destination outside Illinois, for use  
7 outside Illinois.

8 (18) Legal tender, currency, medallions, or gold or silver  
9 coinage issued by the State of Illinois, the government of the  
10 United States of America, or the government of any foreign  
11 country, and bullion.

12 (19) Until July 1 2003, oil field exploration, drilling,  
13 and production equipment, including (i) rigs and parts of rigs,  
14 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
15 tubular goods, including casing and drill strings, (iii) pumps  
16 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
17 individual replacement part for oil field exploration,  
18 drilling, and production equipment, and (vi) machinery and  
19 equipment purchased for lease; but excluding motor vehicles  
20 required to be registered under the Illinois Vehicle Code.

21 (20) Photoprocessing machinery and equipment, including  
22 repair and replacement parts, both new and used, including that  
23 manufactured on special order, certified by the purchaser to be  
24 used primarily for photoprocessing, and including  
25 photoprocessing machinery and equipment purchased for lease.

26 (21) Until July 1, 2003, coal exploration, mining,  
27 offhighway hauling, processing, maintenance, and reclamation  
28 equipment, including replacement parts and equipment, and  
29 including equipment purchased for lease, but excluding motor  
30 vehicles required to be registered under the Illinois Vehicle  
31 Code.

32 (22) Fuel and petroleum products sold to or used by an air  
33 carrier, certified by the carrier to be used for consumption,  
34 shipment, or storage in the conduct of its business as an air

1 common carrier, for a flight destined for or returning from a  
2 location or locations outside the United States without regard  
3 to previous or subsequent domestic stopovers.

4 (23) A transaction in which the purchase order is received  
5 by a florist who is located outside Illinois, but who has a  
6 florist located in Illinois deliver the property to the  
7 purchaser or the purchaser's donee in Illinois.

8 (24) Fuel consumed or used in the operation of ships,  
9 barges, or vessels that are used primarily in or for the  
10 transportation of property or the conveyance of persons for  
11 hire on rivers bordering on this State if the fuel is delivered  
12 by the seller to the purchaser's barge, ship, or vessel while  
13 it is afloat upon that bordering river.

14 (25) A motor vehicle sold in this State to a nonresident  
15 even though the motor vehicle is delivered to the nonresident  
16 in this State, if the motor vehicle is not to be titled in this  
17 State, and if a drive-away permit is issued to the motor  
18 vehicle as provided in Section 3-603 of the Illinois Vehicle  
19 Code or if the nonresident purchaser has vehicle registration  
20 plates to transfer to the motor vehicle upon returning to his  
21 or her home state. The issuance of the drive-away permit or  
22 having the out-of-state registration plates to be transferred  
23 is prima facie evidence that the motor vehicle will not be  
24 titled in this State.

25 (26) Semen used for artificial insemination of livestock  
26 for direct agricultural production.

27 (27) Horses, or interests in horses, registered with and  
28 meeting the requirements of any of the Arabian Horse Club  
29 Registry of America, Appaloosa Horse Club, American Quarter  
30 Horse Association, United States Trotting Association, or  
31 Jockey Club, as appropriate, used for purposes of breeding or  
32 racing for prizes.

33 (28) Computers and communications equipment utilized for  
34 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients sold to a lessor  
2 who leases the equipment, under a lease of one year or longer  
3 executed or in effect at the time of the purchase, to a  
4 hospital that has been issued an active tax exemption  
5 identification number by the Department under Section 1g of  
6 this Act.

7 (29) Personal property sold to a lessor who leases the  
8 property, under a lease of one year or longer executed or in  
9 effect at the time of the purchase, to a governmental body that  
10 has been issued an active tax exemption identification number  
11 by the Department under Section 1g of this Act.

12 (30) Beginning with taxable years ending on or after  
13 December 31, 1995 and ending with taxable years ending on or  
14 before December 31, 2004, personal property that is donated for  
15 disaster relief to be used in a State or federally declared  
16 disaster area in Illinois or bordering Illinois by a  
17 manufacturer or retailer that is registered in this State to a  
18 corporation, society, association, foundation, or institution  
19 that has been issued a sales tax exemption identification  
20 number by the Department that assists victims of the disaster  
21 who reside within the declared disaster area.

22 (31) Beginning with taxable years ending on or after  
23 December 31, 1995 and ending with taxable years ending on or  
24 before December 31, 2004, personal property that is used in the  
25 performance of infrastructure repairs in this State, including  
26 but not limited to municipal roads and streets, access roads,  
27 bridges, sidewalks, waste disposal systems, water and sewer  
28 line extensions, water distribution and purification  
29 facilities, storm water drainage and retention facilities, and  
30 sewage treatment facilities, resulting from a State or  
31 federally declared disaster in Illinois or bordering Illinois  
32 when such repairs are initiated on facilities located in the  
33 declared disaster area within 6 months after the disaster.

34 (32) Beginning July 1, 1999, game or game birds sold at a



1 "game breeding and hunting preserve area" or an "exotic game  
2 hunting area" as those terms are used in the Wildlife Code or  
3 at a hunting enclosure approved through rules adopted by the  
4 Department of Natural Resources. This paragraph is exempt from  
5 the provisions of Section 2-70.

6 (33) A motor vehicle, as that term is defined in Section  
7 1-146 of the Illinois Vehicle Code, that is donated to a  
8 corporation, limited liability company, society, association,  
9 foundation, or institution that is determined by the Department  
10 to be organized and operated exclusively for educational  
11 purposes. For purposes of this exemption, "a corporation,  
12 limited liability company, society, association, foundation,  
13 or institution organized and operated exclusively for  
14 educational purposes" means all tax-supported public schools,  
15 private schools that offer systematic instruction in useful  
16 branches of learning by methods common to public schools and  
17 that compare favorably in their scope and intensity with the  
18 course of study presented in tax-supported schools, and  
19 vocational or technical schools or institutes organized and  
20 operated exclusively to provide a course of study of not less  
21 than 6 weeks duration and designed to prepare individuals to  
22 follow a trade or to pursue a manual, technical, mechanical,  
23 industrial, business, or commercial occupation.

24 (34) Beginning January 1, 2000, personal property,  
25 including food, purchased through fundraising events for the  
26 benefit of a public or private elementary or secondary school,  
27 a group of those schools, or one or more school districts if  
28 the events are sponsored by an entity recognized by the school  
29 district that consists primarily of volunteers and includes  
30 parents and teachers of the school children. This paragraph  
31 does not apply to fundraising events (i) for the benefit of  
32 private home instruction or (ii) for which the fundraising  
33 entity purchases the personal property sold at the events from  
34 another individual or entity that sold the property for the

1 purpose of resale by the fundraising entity and that profits  
2 from the sale to the fundraising entity. This paragraph is  
3 exempt from the provisions of Section 2-70.

4 (35) Beginning January 1, 2000 and through December 31,  
5 2001, new or used automatic vending machines that prepare and  
6 serve hot food and beverages, including coffee, soup, and other  
7 items, and replacement parts for these machines. Beginning  
8 January 1, 2002 and through June 30, 2003, machines and parts  
9 for machines used in commercial, coin-operated amusement and  
10 vending business if a use or occupation tax is paid on the  
11 gross receipts derived from the use of the commercial,  
12 coin-operated amusement and vending machines. This paragraph  
13 is exempt from the provisions of Section 2-70.

14 (35-5) Food for human consumption that is to be consumed  
15 off the premises where it is sold (other than alcoholic  
16 beverages, soft drinks, and food that has been prepared for  
17 immediate consumption) and prescription and nonprescription  
18 medicines, drugs, medical appliances, and insulin, urine  
19 testing materials, syringes, and needles used by diabetics, for  
20 human use, when purchased for use by a person receiving medical  
21 assistance under Article 5 of the Illinois Public Aid Code who  
22 resides in a licensed long-term care facility, as defined in  
23 the Nursing Home Care Act.

24 (36) Beginning August 2, 2001, computers and  
25 communications equipment utilized for any hospital purpose and  
26 equipment used in the diagnosis, analysis, or treatment of  
27 hospital patients sold to a lessor who leases the equipment,  
28 under a lease of one year or longer executed or in effect at  
29 the time of the purchase, to a hospital that has been issued an  
30 active tax exemption identification number by the Department  
31 under Section 1g of this Act. This paragraph is exempt from the  
32 provisions of Section 2-70.

33 (37) Beginning August 2, 2001, personal property sold to a  
34 lessor who leases the property, under a lease of one year or

1 longer executed or in effect at the time of the purchase, to a  
2 governmental body that has been issued an active tax exemption  
3 identification number by the Department under Section 1g of  
4 this Act. This paragraph is exempt from the provisions of  
5 Section 2-70.

6 (38) Beginning on January 1, 2002, tangible personal  
7 property purchased from an Illinois retailer by a taxpayer  
8 engaged in centralized purchasing activities in Illinois who  
9 will, upon receipt of the property in Illinois, temporarily  
10 store the property in Illinois (i) for the purpose of  
11 subsequently transporting it outside this State for use or  
12 consumption thereafter solely outside this State or (ii) for  
13 the purpose of being processed, fabricated, or manufactured  
14 into, attached to, or incorporated into other tangible personal  
15 property to be transported outside this State and thereafter  
16 used or consumed solely outside this State. The Director of  
17 Revenue shall, pursuant to rules adopted in accordance with the  
18 Illinois Administrative Procedure Act, issue a permit to any  
19 taxpayer in good standing with the Department who is eligible  
20 for the exemption under this paragraph (38). The permit issued  
21 under this paragraph (38) shall authorize the holder, to the  
22 extent and in the manner specified in the rules adopted under  
23 this Act, to purchase tangible personal property from a  
24 retailer exempt from the taxes imposed by this Act. Taxpayers  
25 shall maintain all necessary books and records to substantiate  
26 the use and consumption of all such tangible personal property  
27 outside of the State of Illinois.

28 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
29 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
30 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.  
31 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised  
32 9-11-03.)

33 (35 ILCS 120/3) (from Ch. 120, par. 442)

1           Sec. 3. Except as provided in this Section, on or before  
2 the twentieth day of each calendar month, every person engaged  
3 in the business of selling tangible personal property at retail  
4 in this State during the preceding calendar month shall file a  
5 return with the Department, stating:

6           1. The name of the seller;

7           2. His residence address and the address of his  
8 principal place of business and the address of the  
9 principal place of business (if that is a different  
10 address) from which he engages in the business of selling  
11 tangible personal property at retail in this State;

12           3. Total amount of receipts received by him during the  
13 preceding calendar month or quarter, as the case may be,  
14 from sales of tangible personal property, and from services  
15 furnished, by him during such preceding calendar month or  
16 quarter;

17           4. Total amount received by him during the preceding  
18 calendar month or quarter on charge and time sales of  
19 tangible personal property, and from services furnished,  
20 by him prior to the month or quarter for which the return  
21 is filed;

22           5. Deductions allowed by law;

23           6. Gross receipts which were received by him during the  
24 preceding calendar month or quarter and upon the basis of  
25 which the tax is imposed;

26           7. The amount of credit provided in Section 2d of this  
27 Act;

28           8. The amount of tax due;

29           9. The signature of the taxpayer; and

30           10. Such other reasonable information as the  
31 Department may require.

32           If a taxpayer fails to sign a return within 30 days after  
33 the proper notice and demand for signature by the Department,  
34 the return shall be considered valid and any amount shown to be

1 due on the return shall be deemed assessed.

2 Each return shall be accompanied by the statement of  
3 prepaid tax issued pursuant to Section 2e for which credit is  
4 claimed.

5 Prior to October 1, 2003, and on and after September 1,  
6 2004 a retailer may accept a Manufacturer's Purchase Credit  
7 certification from a purchaser in satisfaction of Use Tax as  
8 provided in Section 3-85 of the Use Tax Act if the purchaser  
9 provides the appropriate documentation as required by Section  
10 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit  
11 certification, accepted by a retailer prior to October 1, 2003  
12 and on and after September 1, 2004 as provided in Section 3-85  
13 of the Use Tax Act, may be used by that retailer to satisfy  
14 Retailers' Occupation Tax liability in the amount claimed in  
15 the certification, not to exceed 6.25% of the receipts subject  
16 to tax from a qualifying purchase. A Manufacturer's Purchase  
17 Credit reported on any original or amended return filed under  
18 this Act after October 20, 2003 for reporting periods prior to  
19 September 1, 2004 shall be disallowed. Manufacturer's  
20 Purchaser Credit reported on annual returns due on or after  
21 January 1, 2005 will be disallowed for periods prior to  
22 September 1, 2004. No Manufacturer's Purchase Credit may be  
23 used after September 30, 2003 through August 31, 2004 to  
24 satisfy any tax liability imposed under this Act, including any  
25 audit liability.

26 The Department may require returns to be filed on a  
27 quarterly basis. If so required, a return for each calendar  
28 quarter shall be filed on or before the twentieth day of the  
29 calendar month following the end of such calendar quarter. The  
30 taxpayer shall also file a return with the Department for each  
31 of the first two months of each calendar quarter, on or before  
32 the twentieth day of the following calendar month, stating:

- 33 1. The name of the seller;  
34 2. The address of the principal place of business from

1 which he engages in the business of selling tangible  
2 personal property at retail in this State;

3 3. The total amount of taxable receipts received by him  
4 during the preceding calendar month from sales of tangible  
5 personal property by him during such preceding calendar  
6 month, including receipts from charge and time sales, but  
7 less all deductions allowed by law;

8 4. The amount of credit provided in Section 2d of this  
9 Act;

10 5. The amount of tax due; and

11 6. Such other reasonable information as the Department  
12 may require.

13 Beginning on October 1, 2003, any person who is not a  
14 licensed distributor, importing distributor, or manufacturer,  
15 as defined in the Liquor Control Act of 1934, but is engaged in  
16 the business of selling, at retail, alcoholic liquor shall file  
17 a statement with the Department of Revenue, in a format and at  
18 a time prescribed by the Department, showing the total amount  
19 paid for alcoholic liquor purchased during the preceding month  
20 and such other information as is reasonably required by the  
21 Department. The Department may adopt rules to require that this  
22 statement be filed in an electronic or telephonic format. Such  
23 rules may provide for exceptions from the filing requirements  
24 of this paragraph. For the purposes of this paragraph, the term  
25 "alcoholic liquor" shall have the meaning prescribed in the  
26 Liquor Control Act of 1934.

27 Beginning on October 1, 2003, every distributor, importing  
28 distributor, and manufacturer of alcoholic liquor as defined in  
29 the Liquor Control Act of 1934, shall file a statement with the  
30 Department of Revenue, no later than the 10th day of the month  
31 for the preceding month during which transactions occurred, by  
32 electronic means, showing the total amount of gross receipts  
33 from the sale of alcoholic liquor sold or distributed during  
34 the preceding month to purchasers; identifying the purchaser to

1 whom it was sold or distributed; the purchaser's tax  
2 registration number; and such other information reasonably  
3 required by the Department. A copy of the monthly statement  
4 shall be sent to the retailer no later than the 10th day of the  
5 month for the preceding month during which transactions  
6 occurred.

7 If a total amount of less than \$1 is payable, refundable or  
8 creditable, such amount shall be disregarded if it is less than  
9 50 cents and shall be increased to \$1 if it is 50 cents or more.

10 Beginning October 1, 1993, a taxpayer who has an average  
11 monthly tax liability of \$150,000 or more shall make all  
12 payments required by rules of the Department by electronic  
13 funds transfer. Beginning October 1, 1994, a taxpayer who has  
14 an average monthly tax liability of \$100,000 or more shall make  
15 all payments required by rules of the Department by electronic  
16 funds transfer. Beginning October 1, 1995, a taxpayer who has  
17 an average monthly tax liability of \$50,000 or more shall make  
18 all payments required by rules of the Department by electronic  
19 funds transfer. Beginning October 1, 2000, a taxpayer who has  
20 an annual tax liability of \$200,000 or more shall make all  
21 payments required by rules of the Department by electronic  
22 funds transfer. The term "annual tax liability" shall be the  
23 sum of the taxpayer's liabilities under this Act, and under all  
24 other State and local occupation and use tax laws administered  
25 by the Department, for the immediately preceding calendar year.  
26 The term "average monthly tax liability" shall be the sum of  
27 the taxpayer's liabilities under this Act, and under all other  
28 State and local occupation and use tax laws administered by the  
29 Department, for the immediately preceding calendar year  
30 divided by 12. Beginning on October 1, 2002, a taxpayer who has  
31 a tax liability in the amount set forth in subsection (b) of  
32 Section 2505-210 of the Department of Revenue Law shall make  
33 all payments required by rules of the Department by electronic  
34 funds transfer.

1           Before August 1 of each year beginning in 1993, the  
2 Department shall notify all taxpayers required to make payments  
3 by electronic funds transfer. All taxpayers required to make  
4 payments by electronic funds transfer shall make those payments  
5 for a minimum of one year beginning on October 1.

6           Any taxpayer not required to make payments by electronic  
7 funds transfer may make payments by electronic funds transfer  
8 with the permission of the Department.

9           All taxpayers required to make payment by electronic funds  
10 transfer and any taxpayers authorized to voluntarily make  
11 payments by electronic funds transfer shall make those payments  
12 in the manner authorized by the Department.

13           The Department shall adopt such rules as are necessary to  
14 effectuate a program of electronic funds transfer and the  
15 requirements of this Section.

16           Any amount which is required to be shown or reported on any  
17 return or other document under this Act shall, if such amount  
18 is not a whole-dollar amount, be increased to the nearest  
19 whole-dollar amount in any case where the fractional part of a  
20 dollar is 50 cents or more, and decreased to the nearest  
21 whole-dollar amount where the fractional part of a dollar is  
22 less than 50 cents.

23           If the retailer is otherwise required to file a monthly  
24 return and if the retailer's average monthly tax liability to  
25 the Department does not exceed \$200, the Department may  
26 authorize his returns to be filed on a quarter annual basis,  
27 with the return for January, February and March of a given year  
28 being due by April 20 of such year; with the return for April,  
29 May and June of a given year being due by July 20 of such year;  
30 with the return for July, August and September of a given year  
31 being due by October 20 of such year, and with the return for  
32 October, November and December of a given year being due by  
33 January 20 of the following year.

34           If the retailer is otherwise required to file a monthly or



1 quarterly return and if the retailer's average monthly tax  
2 liability with the Department does not exceed \$50, the  
3 Department may authorize his returns to be filed on an annual  
4 basis, with the return for a given year being due by January 20  
5 of the following year.

6 Such quarter annual and annual returns, as to form and  
7 substance, shall be subject to the same requirements as monthly  
8 returns.

9 Notwithstanding any other provision in this Act concerning  
10 the time within which a retailer may file his return, in the  
11 case of any retailer who ceases to engage in a kind of business  
12 which makes him responsible for filing returns under this Act,  
13 such retailer shall file a final return under this Act with the  
14 Department not more than one month after discontinuing such  
15 business.

16 Where the same person has more than one business registered  
17 with the Department under separate registrations under this  
18 Act, such person may not file each return that is due as a  
19 single return covering all such registered businesses, but  
20 shall file separate returns for each such registered business.

21 In addition, with respect to motor vehicles, watercraft,  
22 aircraft, and trailers that are required to be registered with  
23 an agency of this State, every retailer selling this kind of  
24 tangible personal property shall file, with the Department,  
25 upon a form to be prescribed and supplied by the Department, a  
26 separate return for each such item of tangible personal  
27 property which the retailer sells, except that if, in the same  
28 transaction, (i) a retailer of aircraft, watercraft, motor  
29 vehicles or trailers transfers more than one aircraft,  
30 watercraft, motor vehicle or trailer to another aircraft,  
31 watercraft, motor vehicle retailer or trailer retailer for the  
32 purpose of resale or (ii) a retailer of aircraft, watercraft,  
33 motor vehicles, or trailers transfers more than one aircraft,  
34 watercraft, motor vehicle, or trailer to a purchaser for use as

1 a qualifying rolling stock as provided in Section 2-5 of this  
2 Act, then that seller may report the transfer of all aircraft,  
3 watercraft, motor vehicles or trailers involved in that  
4 transaction to the Department on the same uniform  
5 invoice-transaction reporting return form. For purposes of  
6 this Section, "watercraft" means a Class 2, Class 3, or Class 4  
7 watercraft as defined in Section 3-2 of the Boat Registration  
8 and Safety Act, a personal watercraft, or any boat equipped  
9 with an inboard motor.

10 Any retailer who sells only motor vehicles, watercraft,  
11 aircraft, or trailers that are required to be registered with  
12 an agency of this State, so that all retailers' occupation tax  
13 liability is required to be reported, and is reported, on such  
14 transaction reporting returns and who is not otherwise required  
15 to file monthly or quarterly returns, need not file monthly or  
16 quarterly returns. However, those retailers shall be required  
17 to file returns on an annual basis.

18 The transaction reporting return, in the case of motor  
19 vehicles or trailers that are required to be registered with an  
20 agency of this State, shall be the same document as the Uniform  
21 Invoice referred to in Section 5-402 of The Illinois Vehicle  
22 Code and must show the name and address of the seller; the name  
23 and address of the purchaser; the amount of the selling price  
24 including the amount allowed by the retailer for traded-in  
25 property, if any; the amount allowed by the retailer for the  
26 traded-in tangible personal property, if any, to the extent to  
27 which Section 1 of this Act allows an exemption for the value  
28 of traded-in property; the balance payable after deducting such  
29 trade-in allowance from the total selling price; the amount of  
30 tax due from the retailer with respect to such transaction; the  
31 amount of tax collected from the purchaser by the retailer on  
32 such transaction (or satisfactory evidence that such tax is not  
33 due in that particular instance, if that is claimed to be the  
34 fact); the place and date of the sale; a sufficient

1 identification of the property sold; such other information as  
2 is required in Section 5-402 of The Illinois Vehicle Code, and  
3 such other information as the Department may reasonably  
4 require.

5 The transaction reporting return in the case of watercraft  
6 or aircraft must show the name and address of the seller; the  
7 name and address of the purchaser; the amount of the selling  
8 price including the amount allowed by the retailer for  
9 traded-in property, if any; the amount allowed by the retailer  
10 for the traded-in tangible personal property, if any, to the  
11 extent to which Section 1 of this Act allows an exemption for  
12 the value of traded-in property; the balance payable after  
13 deducting such trade-in allowance from the total selling price;  
14 the amount of tax due from the retailer with respect to such  
15 transaction; the amount of tax collected from the purchaser by  
16 the retailer on such transaction (or satisfactory evidence that  
17 such tax is not due in that particular instance, if that is  
18 claimed to be the fact); the place and date of the sale, a  
19 sufficient identification of the property sold, and such other  
20 information as the Department may reasonably require.

21 Such transaction reporting return shall be filed not later  
22 than 20 days after the day of delivery of the item that is  
23 being sold, but may be filed by the retailer at any time sooner  
24 than that if he chooses to do so. The transaction reporting  
25 return and tax remittance or proof of exemption from the  
26 Illinois use tax may be transmitted to the Department by way of  
27 the State agency with which, or State officer with whom the  
28 tangible personal property must be titled or registered (if  
29 titling or registration is required) if the Department and such  
30 agency or State officer determine that this procedure will  
31 expedite the processing of applications for title or  
32 registration.

33 With each such transaction reporting return, the retailer  
34 shall remit the proper amount of tax due (or shall submit

1 satisfactory evidence that the sale is not taxable if that is  
2 the case), to the Department or its agents, whereupon the  
3 Department shall issue, in the purchaser's name, a use tax  
4 receipt (or a certificate of exemption if the Department is  
5 satisfied that the particular sale is tax exempt) which such  
6 purchaser may submit to the agency with which, or State officer  
7 with whom, he must title or register the tangible personal  
8 property that is involved (if titling or registration is  
9 required) in support of such purchaser's application for an  
10 Illinois certificate or other evidence of title or registration  
11 to such tangible personal property.

12 No retailer's failure or refusal to remit tax under this  
13 Act precludes a user, who has paid the proper tax to the  
14 retailer, from obtaining his certificate of title or other  
15 evidence of title or registration (if titling or registration  
16 is required) upon satisfying the Department that such user has  
17 paid the proper tax (if tax is due) to the retailer. The  
18 Department shall adopt appropriate rules to carry out the  
19 mandate of this paragraph.

20 If the user who would otherwise pay tax to the retailer  
21 wants the transaction reporting return filed and the payment of  
22 the tax or proof of exemption made to the Department before the  
23 retailer is willing to take these actions and such user has not  
24 paid the tax to the retailer, such user may certify to the fact  
25 of such delay by the retailer and may (upon the Department  
26 being satisfied of the truth of such certification) transmit  
27 the information required by the transaction reporting return  
28 and the remittance for tax or proof of exemption directly to  
29 the Department and obtain his tax receipt or exemption  
30 determination, in which event the transaction reporting return  
31 and tax remittance (if a tax payment was required) shall be  
32 credited by the Department to the proper retailer's account  
33 with the Department, but without the 2.1% or 1.75% discount  
34 provided for in this Section being allowed. When the user pays

1 the tax directly to the Department, he shall pay the tax in the  
2 same amount and in the same form in which it would be remitted  
3 if the tax had been remitted to the Department by the retailer.

4 Refunds made by the seller during the preceding return  
5 period to purchasers, on account of tangible personal property  
6 returned to the seller, shall be allowed as a deduction under  
7 subdivision 5 of his monthly or quarterly return, as the case  
8 may be, in case the seller had theretofore included the  
9 receipts from the sale of such tangible personal property in a  
10 return filed by him and had paid the tax imposed by this Act  
11 with respect to such receipts.

12 Where the seller is a corporation, the return filed on  
13 behalf of such corporation shall be signed by the president,  
14 vice-president, secretary or treasurer or by the properly  
15 accredited agent of such corporation.

16 Where the seller is a limited liability company, the return  
17 filed on behalf of the limited liability company shall be  
18 signed by a manager, member, or properly accredited agent of  
19 the limited liability company.

20 Except as provided in this Section, the retailer filing the  
21 return under this Section shall, at the time of filing such  
22 return, pay to the Department the amount of tax imposed by this  
23 Act less a discount of 2.1% prior to January 1, 1990 and 1.75%  
24 on and after January 1, 1990, or \$5 per calendar year,  
25 whichever is greater, which is allowed to reimburse the  
26 retailer for the expenses incurred in keeping records,  
27 preparing and filing returns, remitting the tax and supplying  
28 data to the Department on request. Any prepayment made pursuant  
29 to Section 2d of this Act shall be included in the amount on  
30 which such 2.1% or 1.75% discount is computed. In the case of  
31 retailers who report and pay the tax on a transaction by  
32 transaction basis, as provided in this Section, such discount  
33 shall be taken with each such tax remittance instead of when  
34 such retailer files his periodic return.

1           Before October 1, 2000, if the taxpayer's average monthly  
2 tax liability to the Department under this Act, the Use Tax  
3 Act, the Service Occupation Tax Act, and the Service Use Tax  
4 Act, excluding any liability for prepaid sales tax to be  
5 remitted in accordance with Section 2d of this Act, was \$10,000  
6 or more during the preceding 4 complete calendar quarters, he  
7 shall file a return with the Department each month by the 20th  
8 day of the month next following the month during which such tax  
9 liability is incurred and shall make payments to the Department  
10 on or before the 7th, 15th, 22nd and last day of the month  
11 during which such liability is incurred. On and after October  
12 1, 2000, if the taxpayer's average monthly tax liability to the  
13 Department under this Act, the Use Tax Act, the Service  
14 Occupation Tax Act, and the Service Use Tax Act, excluding any  
15 liability for prepaid sales tax to be remitted in accordance  
16 with Section 2d of this Act, was \$20,000 or more during the  
17 preceding 4 complete calendar quarters, he shall file a return  
18 with the Department each month by the 20th day of the month  
19 next following the month during which such tax liability is  
20 incurred and shall make payment to the Department on or before  
21 the 7th, 15th, 22nd and last day of the month during which such  
22 liability is incurred. If the month during which such tax  
23 liability is incurred began prior to January 1, 1985, each  
24 payment shall be in an amount equal to 1/4 of the taxpayer's  
25 actual liability for the month or an amount set by the  
26 Department not to exceed 1/4 of the average monthly liability  
27 of the taxpayer to the Department for the preceding 4 complete  
28 calendar quarters (excluding the month of highest liability and  
29 the month of lowest liability in such 4 quarter period). If the  
30 month during which such tax liability is incurred begins on or  
31 after January 1, 1985 and prior to January 1, 1987, each  
32 payment shall be in an amount equal to 22.5% of the taxpayer's  
33 actual liability for the month or 27.5% of the taxpayer's  
34 liability for the same calendar month of the preceding year. If

1 the month during which such tax liability is incurred begins on  
2 or after January 1, 1987 and prior to January 1, 1988, each  
3 payment shall be in an amount equal to 22.5% of the taxpayer's  
4 actual liability for the month or 26.25% of the taxpayer's  
5 liability for the same calendar month of the preceding year. If  
6 the month during which such tax liability is incurred begins on  
7 or after January 1, 1988, and prior to January 1, 1989, or  
8 begins on or after January 1, 1996, each payment shall be in an  
9 amount equal to 22.5% of the taxpayer's actual liability for  
10 the month or 25% of the taxpayer's liability for the same  
11 calendar month of the preceding year. If the month during which  
12 such tax liability is incurred begins on or after January 1,  
13 1989, and prior to January 1, 1996, each payment shall be in an  
14 amount equal to 22.5% of the taxpayer's actual liability for  
15 the month or 25% of the taxpayer's liability for the same  
16 calendar month of the preceding year or 100% of the taxpayer's  
17 actual liability for the quarter monthly reporting period. The  
18 amount of such quarter monthly payments shall be credited  
19 against the final tax liability of the taxpayer's return for  
20 that month. Before October 1, 2000, once applicable, the  
21 requirement of the making of quarter monthly payments to the  
22 Department by taxpayers having an average monthly tax liability  
23 of \$10,000 or more as determined in the manner provided above  
24 shall continue until such taxpayer's average monthly liability  
25 to the Department during the preceding 4 complete calendar  
26 quarters (excluding the month of highest liability and the  
27 month of lowest liability) is less than \$9,000, or until such  
28 taxpayer's average monthly liability to the Department as  
29 computed for each calendar quarter of the 4 preceding complete  
30 calendar quarter period is less than \$10,000. However, if a  
31 taxpayer can show the Department that a substantial change in  
32 the taxpayer's business has occurred which causes the taxpayer  
33 to anticipate that his average monthly tax liability for the  
34 reasonably foreseeable future will fall below the \$10,000

1 threshold stated above, then such taxpayer may petition the  
2 Department for a change in such taxpayer's reporting status. On  
3 and after October 1, 2000, once applicable, the requirement of  
4 the making of quarter monthly payments to the Department by  
5 taxpayers having an average monthly tax liability of \$20,000 or  
6 more as determined in the manner provided above shall continue  
7 until such taxpayer's average monthly liability to the  
8 Department during the preceding 4 complete calendar quarters  
9 (excluding the month of highest liability and the month of  
10 lowest liability) is less than \$19,000 or until such taxpayer's  
11 average monthly liability to the Department as computed for  
12 each calendar quarter of the 4 preceding complete calendar  
13 quarter period is less than \$20,000. However, if a taxpayer can  
14 show the Department that a substantial change in the taxpayer's  
15 business has occurred which causes the taxpayer to anticipate  
16 that his average monthly tax liability for the reasonably  
17 foreseeable future will fall below the \$20,000 threshold stated  
18 above, then such taxpayer may petition the Department for a  
19 change in such taxpayer's reporting status. The Department  
20 shall change such taxpayer's reporting status unless it finds  
21 that such change is seasonal in nature and not likely to be  
22 long term. If any such quarter monthly payment is not paid at  
23 the time or in the amount required by this Section, then the  
24 taxpayer shall be liable for penalties and interest on the  
25 difference between the minimum amount due as a payment and the  
26 amount of such quarter monthly payment actually and timely  
27 paid, except insofar as the taxpayer has previously made  
28 payments for that month to the Department in excess of the  
29 minimum payments previously due as provided in this Section.  
30 The Department shall make reasonable rules and regulations to  
31 govern the quarter monthly payment amount and quarter monthly  
32 payment dates for taxpayers who file on other than a calendar  
33 monthly basis.

34 The provisions of this paragraph apply before October 1,



1 2001. Without regard to whether a taxpayer is required to make  
2 quarter monthly payments as specified above, any taxpayer who  
3 is required by Section 2d of this Act to collect and remit  
4 prepaid taxes and has collected prepaid taxes which average in  
5 excess of \$25,000 per month during the preceding 2 complete  
6 calendar quarters, shall file a return with the Department as  
7 required by Section 2f and shall make payments to the  
8 Department on or before the 7th, 15th, 22nd and last day of the  
9 month during which such liability is incurred. If the month  
10 during which such tax liability is incurred began prior to the  
11 effective date of this amendatory Act of 1985, each payment  
12 shall be in an amount not less than 22.5% of the taxpayer's  
13 actual liability under Section 2d. If the month during which  
14 such tax liability is incurred begins on or after January 1,  
15 1986, each payment shall be in an amount equal to 22.5% of the  
16 taxpayer's actual liability for the month or 27.5% of the  
17 taxpayer's liability for the same calendar month of the  
18 preceding calendar year. If the month during which such tax  
19 liability is incurred begins on or after January 1, 1987, each  
20 payment shall be in an amount equal to 22.5% of the taxpayer's  
21 actual liability for the month or 26.25% of the taxpayer's  
22 liability for the same calendar month of the preceding year.  
23 The amount of such quarter monthly payments shall be credited  
24 against the final tax liability of the taxpayer's return for  
25 that month filed under this Section or Section 2f, as the case  
26 may be. Once applicable, the requirement of the making of  
27 quarter monthly payments to the Department pursuant to this  
28 paragraph shall continue until such taxpayer's average monthly  
29 prepaid tax collections during the preceding 2 complete  
30 calendar quarters is \$25,000 or less. If any such quarter  
31 monthly payment is not paid at the time or in the amount  
32 required, the taxpayer shall be liable for penalties and  
33 interest on such difference, except insofar as the taxpayer has  
34 previously made payments for that month in excess of the

1 minimum payments previously due.

2       The provisions of this paragraph apply on and after October  
3 1, 2001. Without regard to whether a taxpayer is required to  
4 make quarter monthly payments as specified above, any taxpayer  
5 who is required by Section 2d of this Act to collect and remit  
6 prepaid taxes and has collected prepaid taxes that average in  
7 excess of \$20,000 per month during the preceding 4 complete  
8 calendar quarters shall file a return with the Department as  
9 required by Section 2f and shall make payments to the  
10 Department on or before the 7th, 15th, 22nd and last day of the  
11 month during which the liability is incurred. Each payment  
12 shall be in an amount equal to 22.5% of the taxpayer's actual  
13 liability for the month or 25% of the taxpayer's liability for  
14 the same calendar month of the preceding year. The amount of  
15 the quarter monthly payments shall be credited against the  
16 final tax liability of the taxpayer's return for that month  
17 filed under this Section or Section 2f, as the case may be.  
18 Once applicable, the requirement of the making of quarter  
19 monthly payments to the Department pursuant to this paragraph  
20 shall continue until the taxpayer's average monthly prepaid tax  
21 collections during the preceding 4 complete calendar quarters  
22 (excluding the month of highest liability and the month of  
23 lowest liability) is less than \$19,000 or until such taxpayer's  
24 average monthly liability to the Department as computed for  
25 each calendar quarter of the 4 preceding complete calendar  
26 quarters is less than \$20,000. If any such quarter monthly  
27 payment is not paid at the time or in the amount required, the  
28 taxpayer shall be liable for penalties and interest on such  
29 difference, except insofar as the taxpayer has previously made  
30 payments for that month in excess of the minimum payments  
31 previously due.

32       If any payment provided for in this Section exceeds the  
33 taxpayer's liabilities under this Act, the Use Tax Act, the  
34 Service Occupation Tax Act and the Service Use Tax Act, as

1 shown on an original monthly return, the Department shall, if  
2 requested by the taxpayer, issue to the taxpayer a credit  
3 memorandum no later than 30 days after the date of payment. The  
4 credit evidenced by such credit memorandum may be assigned by  
5 the taxpayer to a similar taxpayer under this Act, the Use Tax  
6 Act, the Service Occupation Tax Act or the Service Use Tax Act,  
7 in accordance with reasonable rules and regulations to be  
8 prescribed by the Department. If no such request is made, the  
9 taxpayer may credit such excess payment against tax liability  
10 subsequently to be remitted to the Department under this Act,  
11 the Use Tax Act, the Service Occupation Tax Act or the Service  
12 Use Tax Act, in accordance with reasonable rules and  
13 regulations prescribed by the Department. If the Department  
14 subsequently determined that all or any part of the credit  
15 taken was not actually due to the taxpayer, the taxpayer's 2.1%  
16 and 1.75% vendor's discount shall be reduced by 2.1% or 1.75%  
17 of the difference between the credit taken and that actually  
18 due, and that taxpayer shall be liable for penalties and  
19 interest on such difference.

20 If a retailer of motor fuel is entitled to a credit under  
21 Section 2d of this Act which exceeds the taxpayer's liability  
22 to the Department under this Act for the month which the  
23 taxpayer is filing a return, the Department shall issue the  
24 taxpayer a credit memorandum for the excess.

25 Beginning January 1, 1990, each month the Department shall  
26 pay into the Local Government Tax Fund, a special fund in the  
27 State treasury which is hereby created, the net revenue  
28 realized for the preceding month from the 1% tax on sales of  
29 food for human consumption which is to be consumed off the  
30 premises where it is sold (other than alcoholic beverages, soft  
31 drinks and food which has been prepared for immediate  
32 consumption) and prescription and nonprescription medicines,  
33 drugs, medical appliances and insulin, urine testing  
34 materials, syringes and needles used by diabetics.

1           Beginning January 1, 1990, each month the Department shall  
2 pay into the County and Mass Transit District Fund, a special  
3 fund in the State treasury which is hereby created, 4% of the  
4 net revenue realized for the preceding month from the 6.25%  
5 general rate.

6           Beginning August 1, 2000, each month the Department shall  
7 pay into the County and Mass Transit District Fund 20% of the  
8 net revenue realized for the preceding month from the 1.25%  
9 rate on the selling price of motor fuel and gasohol.

10          Beginning January 1, 1990, each month the Department shall  
11 pay into the Local Government Tax Fund 16% of the net revenue  
12 realized for the preceding month from the 6.25% general rate on  
13 the selling price of tangible personal property.

14          Beginning August 1, 2000, each month the Department shall  
15 pay into the Local Government Tax Fund 80% of the net revenue  
16 realized for the preceding month from the 1.25% rate on the  
17 selling price of motor fuel and gasohol.

18          Of the remainder of the moneys received by the Department  
19 pursuant to this Act, (a) 1.75% thereof shall be paid into the  
20 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on  
21 and after July 1, 1989, 3.8% thereof shall be paid into the  
22 Build Illinois Fund; provided, however, that if in any fiscal  
23 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case  
24 may be, of the moneys received by the Department and required  
25 to be paid into the Build Illinois Fund pursuant to this Act,  
26 Section 9 of the Use Tax Act, Section 9 of the Service Use Tax  
27 Act, and Section 9 of the Service Occupation Tax Act, such Acts  
28 being hereinafter called the "Tax Acts" and such aggregate of  
29 2.2% or 3.8%, as the case may be, of moneys being hereinafter  
30 called the "Tax Act Amount", and (2) the amount transferred to  
31 the Build Illinois Fund from the State and Local Sales Tax  
32 Reform Fund shall be less than the Annual Specified Amount (as  
33 hereinafter defined), an amount equal to the difference shall  
34 be immediately paid into the Build Illinois Fund from other

1 moneys received by the Department pursuant to the Tax Acts; the  
2 "Annual Specified Amount" means the amounts specified below for  
3 fiscal years 1986 through 1993:

4	Fiscal Year	Annual Specified Amount
5	1986	\$54,800,000
6	1987	\$76,650,000
7	1988	\$80,480,000
8	1989	\$88,510,000
9	1990	\$115,330,000
10	1991	\$145,470,000
11	1992	\$182,730,000
12	1993	\$206,520,000;

13 and means the Certified Annual Debt Service Requirement (as  
14 defined in Section 13 of the Build Illinois Bond Act) or the  
15 Tax Act Amount, whichever is greater, for fiscal year 1994 and  
16 each fiscal year thereafter; and further provided, that if on  
17 the last business day of any month the sum of (1) the Tax Act  
18 Amount required to be deposited into the Build Illinois Bond  
19 Account in the Build Illinois Fund during such month and (2)  
20 the amount transferred to the Build Illinois Fund from the  
21 State and Local Sales Tax Reform Fund shall have been less than  
22 1/12 of the Annual Specified Amount, an amount equal to the  
23 difference shall be immediately paid into the Build Illinois  
24 Fund from other moneys received by the Department pursuant to  
25 the Tax Acts; and, further provided, that in no event shall the  
26 payments required under the preceding proviso result in  
27 aggregate payments into the Build Illinois Fund pursuant to  
28 this clause (b) for any fiscal year in excess of the greater of  
29 (i) the Tax Act Amount or (ii) the Annual Specified Amount for  
30 such fiscal year. The amounts payable into the Build Illinois  
31 Fund under clause (b) of the first sentence in this paragraph  
32 shall be payable only until such time as the aggregate amount  
33 on deposit under each trust indenture securing Bonds issued and  
34 outstanding pursuant to the Build Illinois Bond Act is

1 sufficient, taking into account any future investment income,  
2 to fully provide, in accordance with such indenture, for the  
3 defeasance of or the payment of the principal of, premium, if  
4 any, and interest on the Bonds secured by such indenture and on  
5 any Bonds expected to be issued thereafter and all fees and  
6 costs payable with respect thereto, all as certified by the  
7 Director of the Bureau of the Budget (now Governor's Office of  
8 Management and Budget). If on the last business day of any  
9 month in which Bonds are outstanding pursuant to the Build  
10 Illinois Bond Act, the aggregate of moneys deposited in the  
11 Build Illinois Bond Account in the Build Illinois Fund in such  
12 month shall be less than the amount required to be transferred  
13 in such month from the Build Illinois Bond Account to the Build  
14 Illinois Bond Retirement and Interest Fund pursuant to Section  
15 13 of the Build Illinois Bond Act, an amount equal to such  
16 deficiency shall be immediately paid from other moneys received  
17 by the Department pursuant to the Tax Acts to the Build  
18 Illinois Fund; provided, however, that any amounts paid to the  
19 Build Illinois Fund in any fiscal year pursuant to this  
20 sentence shall be deemed to constitute payments pursuant to  
21 clause (b) of the first sentence of this paragraph and shall  
22 reduce the amount otherwise payable for such fiscal year  
23 pursuant to that clause (b). The moneys received by the  
24 Department pursuant to this Act and required to be deposited  
25 into the Build Illinois Fund are subject to the pledge, claim  
26 and charge set forth in Section 12 of the Build Illinois Bond  
27 Act.

28 Subject to payment of amounts into the Build Illinois Fund  
29 as provided in the preceding paragraph or in any amendment  
30 thereto hereafter enacted, the following specified monthly  
31 installment of the amount requested in the certificate of the  
32 Chairman of the Metropolitan Pier and Exposition Authority  
33 provided under Section 8.25f of the State Finance Act, but not  
34 in excess of sums designated as "Total Deposit", shall be

1 deposited in the aggregate from collections under Section 9 of  
2 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
3 9 of the Service Occupation Tax Act, and Section 3 of the  
4 Retailers' Occupation Tax Act into the McCormick Place  
5 Expansion Project Fund in the specified fiscal years.

	Fiscal Year	Total Deposit
6		
7	1993	\$0
8	1994	53,000,000
9	1995	58,000,000
10	1996	61,000,000
11	1997	64,000,000
12	1998	68,000,000
13	1999	71,000,000
14	2000	75,000,000
15	2001	80,000,000
16	2002	93,000,000
17	2003	99,000,000
18	2004	103,000,000
19	2005	108,000,000
20	2006	113,000,000
21	2007	119,000,000
22	2008	126,000,000
23	2009	132,000,000
24	2010	139,000,000
25	2011	146,000,000
26	2012	153,000,000
27	2013	161,000,000
28	2014	170,000,000
29	2015	179,000,000
30	2016	189,000,000
31	2017	199,000,000
32	2018	210,000,000
33	2019	221,000,000

1	2020	233,000,000
2	2021	246,000,000
3	2022	260,000,000
4	2023 and	275,000,000

5 each fiscal year

6 thereafter that bonds

7 are outstanding under

8 Section 13.2 of the

9 Metropolitan Pier and

10 Exposition Authority Act,

11 but not after fiscal year 2042.

12 Beginning July 20, 1993 and in each month of each fiscal  
13 year thereafter, one-eighth of the amount requested in the  
14 certificate of the Chairman of the Metropolitan Pier and  
15 Exposition Authority for that fiscal year, less the amount  
16 deposited into the McCormick Place Expansion Project Fund by  
17 the State Treasurer in the respective month under subsection  
18 (g) of Section 13 of the Metropolitan Pier and Exposition  
19 Authority Act, plus cumulative deficiencies in the deposits  
20 required under this Section for previous months and years,  
21 shall be deposited into the McCormick Place Expansion Project  
22 Fund, until the full amount requested for the fiscal year, but  
23 not in excess of the amount specified above as "Total Deposit",  
24 has been deposited.

25 Subject to payment of amounts into the Build Illinois Fund  
26 and the McCormick Place Expansion Project Fund pursuant to the  
27 preceding paragraphs or in any amendments thereto hereafter  
28 enacted, beginning July 1, 1993, the Department shall each  
29 month pay into the Illinois Tax Increment Fund 0.27% of 80% of  
30 the net revenue realized for the preceding month from the 6.25%  
31 general rate on the selling price of tangible personal  
32 property.

33 Subject to payment of amounts into the Build Illinois Fund  
34 and the McCormick Place Expansion Project Fund pursuant to the



1 preceding paragraphs or in any amendments thereto hereafter  
2 enacted, beginning with the receipt of the first report of  
3 taxes paid by an eligible business and continuing for a 25-year  
4 period, the Department shall each month pay into the Energy  
5 Infrastructure Fund 80% of the net revenue realized from the  
6 6.25% general rate on the selling price of Illinois-mined coal  
7 that was sold to an eligible business. For purposes of this  
8 paragraph, the term "eligible business" means a new electric  
9 generating facility certified pursuant to Section 605-332 of  
10 the Department of Commerce and Economic Opportunity Community  
11 ~~Affairs~~ Law of the Civil Administrative Code of Illinois.

12 Of the remainder of the moneys received by the Department  
13 pursuant to this Act, 75% thereof shall be paid into the State  
14 Treasury and 25% shall be reserved in a special account and  
15 used only for the transfer to the Common School Fund as part of  
16 the monthly transfer from the General Revenue Fund in  
17 accordance with Section 8a of the State Finance Act.

18 The Department may, upon separate written notice to a  
19 taxpayer, require the taxpayer to prepare and file with the  
20 Department on a form prescribed by the Department within not  
21 less than 60 days after receipt of the notice an annual  
22 information return for the tax year specified in the notice.  
23 Such annual return to the Department shall include a statement  
24 of gross receipts as shown by the retailer's last Federal  
25 income tax return. If the total receipts of the business as  
26 reported in the Federal income tax return do not agree with the  
27 gross receipts reported to the Department of Revenue for the  
28 same period, the retailer shall attach to his annual return a  
29 schedule showing a reconciliation of the 2 amounts and the  
30 reasons for the difference. The retailer's annual return to the  
31 Department shall also disclose the cost of goods sold by the  
32 retailer during the year covered by such return, opening and  
33 closing inventories of such goods for such year, costs of goods  
34 used from stock or taken from stock and given away by the

1 retailer during such year, payroll information of the  
2 retailer's business during such year and any additional  
3 reasonable information which the Department deems would be  
4 helpful in determining the accuracy of the monthly, quarterly  
5 or annual returns filed by such retailer as provided for in  
6 this Section.

7 If the annual information return required by this Section  
8 is not filed when and as required, the taxpayer shall be liable  
9 as follows:

10 (i) Until January 1, 1994, the taxpayer shall be liable  
11 for a penalty equal to 1/6 of 1% of the tax due from such  
12 taxpayer under this Act during the period to be covered by  
13 the annual return for each month or fraction of a month  
14 until such return is filed as required, the penalty to be  
15 assessed and collected in the same manner as any other  
16 penalty provided for in this Act.

17 (ii) On and after January 1, 1994, the taxpayer shall  
18 be liable for a penalty as described in Section 3-4 of the  
19 Uniform Penalty and Interest Act.

20 The chief executive officer, proprietor, owner or highest  
21 ranking manager shall sign the annual return to certify the  
22 accuracy of the information contained therein. Any person who  
23 willfully signs the annual return containing false or  
24 inaccurate information shall be guilty of perjury and punished  
25 accordingly. The annual return form prescribed by the  
26 Department shall include a warning that the person signing the  
27 return may be liable for perjury.

28 The provisions of this Section concerning the filing of an  
29 annual information return do not apply to a retailer who is not  
30 required to file an income tax return with the United States  
31 Government.

32 As soon as possible after the first day of each month, upon  
33 certification of the Department of Revenue, the Comptroller  
34 shall order transferred and the Treasurer shall transfer from

1 the General Revenue Fund to the Motor Fuel Tax Fund an amount  
2 equal to 1.7% of 80% of the net revenue realized under this Act  
3 for the second preceding month. Beginning April 1, 2000, this  
4 transfer is no longer required and shall not be made.

5 Net revenue realized for a month shall be the revenue  
6 collected by the State pursuant to this Act, less the amount  
7 paid out during that month as refunds to taxpayers for  
8 overpayment of liability.

9 For greater simplicity of administration, manufacturers,  
10 importers and wholesalers whose products are sold at retail in  
11 Illinois by numerous retailers, and who wish to do so, may  
12 assume the responsibility for accounting and paying to the  
13 Department all tax accruing under this Act with respect to such  
14 sales, if the retailers who are affected do not make written  
15 objection to the Department to this arrangement.

16 Any person who promotes, organizes, provides retail  
17 selling space for concessionaires or other types of sellers at  
18 the Illinois State Fair, DuQuoin State Fair, county fairs,  
19 local fairs, art shows, flea markets and similar exhibitions or  
20 events, including any transient merchant as defined by Section  
21 2 of the Transient Merchant Act of 1987, is required to file a  
22 report with the Department providing the name of the merchant's  
23 business, the name of the person or persons engaged in  
24 merchant's business, the permanent address and Illinois  
25 Retailers Occupation Tax Registration Number of the merchant,  
26 the dates and location of the event and other reasonable  
27 information that the Department may require. The report must be  
28 filed not later than the 20th day of the month next following  
29 the month during which the event with retail sales was held.  
30 Any person who fails to file a report required by this Section  
31 commits a business offense and is subject to a fine not to  
32 exceed \$250.

33 Any person engaged in the business of selling tangible  
34 personal property at retail as a concessionaire or other type

1 of seller at the Illinois State Fair, county fairs, art shows,  
2 flea markets and similar exhibitions or events, or any  
3 transient merchants, as defined by Section 2 of the Transient  
4 Merchant Act of 1987, may be required to make a daily report of  
5 the amount of such sales to the Department and to make a daily  
6 payment of the full amount of tax due. The Department shall  
7 impose this requirement when it finds that there is a  
8 significant risk of loss of revenue to the State at such an  
9 exhibition or event. Such a finding shall be based on evidence  
10 that a substantial number of concessionaires or other sellers  
11 who are not residents of Illinois will be engaging in the  
12 business of selling tangible personal property at retail at the  
13 exhibition or event, or other evidence of a significant risk of  
14 loss of revenue to the State. The Department shall notify  
15 concessionaires and other sellers affected by the imposition of  
16 this requirement. In the absence of notification by the  
17 Department, the concessionaires and other sellers shall file  
18 their returns as otherwise required in this Section.

19 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-208,  
20 eff. 8-2-01; 92-484, eff. 8-23-01; 92-492, eff. 1-1-02; 92-600,  
21 eff. 6-28-02; 92-651, eff. 7-11-02; 93-22, eff. 6-20-03; 93-24,  
22 eff. 6-20-03; revised 10-15-03.)

23 ARTICLE 25

24 Section 25-5. The Illinois Income Tax Act is amended by  
25 changing Sections 203, 205, 305, and 1501 as follows:

26 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

27 Sec. 203. Base income defined.

28 (a) Individuals.

29 (1) In general. In the case of an individual, base  
30 income means an amount equal to the taxpayer's adjusted  
31 gross income for the taxable year as modified by paragraph

1 (2).

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

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

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 adjusted gross income for the  
15 taxable year;

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

28 (D) An amount equal to the amount of the capital  
29 gain deduction allowable under the Internal Revenue  
30 Code, to the extent deducted from gross income in the  
31 computation of adjusted gross income;

32 (D-5) An amount, to the extent not included in  
33 adjusted gross income, equal to the amount of money  
34 withdrawn by the taxpayer in the taxable year from a

1 medical care savings account and the interest earned on  
2 the account in the taxable year of a withdrawal  
3 pursuant to subsection (b) of Section 20 of the Medical  
4 Care Savings Account Act or subsection (b) of Section  
5 20 of the Medical Care Savings Account Act of 2000;

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

11 (D-15) For taxable years 2001 and thereafter, an  
12 amount equal to the bonus depreciation deduction (30%  
13 of the adjusted basis of the qualified property) 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; ~~and~~

17 (D-16) If the taxpayer reports a capital gain or  
18 loss on the taxpayer's federal income tax return for  
19 the taxable year based on a sale or transfer of  
20 property for which the taxpayer was required in any  
21 taxable year to make an addition modification under  
22 subparagraph (D-15), then an amount equal to the  
23 aggregate amount of the deductions taken in all taxable  
24 years under subparagraph (Z) with respect to that  
25 property. ~~†~~

26 The taxpayer is required to make the addition  
27 modification under this subparagraph only once with  
28 respect to any one piece of property; ~~and~~

29 (D-17) For taxable years ending on or after  
30 December 31, 2004, an amount equal to the amount  
31 otherwise allowed as a deduction in computing base  
32 income for interest paid, accrued, or incurred,  
33 directly or indirectly, to a foreign person who would  
34 be a member of the same unitary business group but for

1 the fact that foreign person's business activity  
2 outside the United States is 80% or more of the foreign  
3 person's total business activity. The addition  
4 modification required by this subparagraph shall be  
5 reduced to the extent that dividends were included in  
6 base income of the unitary group for the same taxable  
7 year and received by the taxpayer or by a member of the  
8 taxpayer's unitary business group (including amounts  
9 included in gross income under Sections 951 through 964  
10 of the Internal Revenue Code and amounts included in  
11 gross income under Section 78 of the Internal Revenue  
12 Code) with respect to the stock of the same person to  
13 whom the interest was paid, accrued, or incurred.

14 This paragraph shall not apply to the following:

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

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

26 (a) the foreign person, during the same  
27 taxable year, paid, accrued, or incurred, the  
28 interest to a person that is not a related  
29 member, and

30 (b) the transaction giving rise to the  
31 interest expense between the taxpayer and the  
32 foreign person did not have as a principal  
33 purpose the avoidance of Illinois income tax,  
34 and is paid pursuant to a contract or agreement

1           that reflects an arms-length interest rate and  
2           terms; or

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

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

26          (D-18) For taxable years ending on or after  
27          December 31, 2004, an amount equal to the amount of  
28          intangible expenses and costs otherwise allowed as a  
29          deduction in computing base income, and that were paid,  
30          accrued, or incurred, directly or indirectly, to a  
31          foreign person who would be a member of the same  
32          unitary business group but for the fact that the  
33          foreign person's business activity outside the United  
34          States is 80% or more of that person's total business



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

30 This paragraph shall not apply to the following:

31 (i) any item of intangible expenses or costs  
32 paid, accrued, or incurred, directly or  
33 indirectly, from a transaction with a foreign  
34 person who is subject in a foreign country or

1 state, other than a state which requires mandatory  
2 unitary reporting, to a tax on or measured by net  
3 income with respect to such item; or

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

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

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

20 (iii) any item of intangible expense or cost  
21 paid, accrued, or incurred, directly or  
22 indirectly, from a transaction with a foreign  
23 person if the taxpayer establishes by clear and  
24 convincing evidence, that the adjustments are  
25 unreasonable; or if the taxpayer and the Director  
26 agree in writing to the application or use of an  
27 alternative method of apportionment under section  
28 304(f);

29 Nothing in this subsection shall preclude the  
30 Director from making any other adjustment  
31 otherwise allowed under Section 404 of this Act for  
32 any tax year beginning after the effective date of  
33 this amendment provided such adjustment is made  
34 pursuant to regulation adopted by the Department

1           and such regulations provide methods and standards  
2           by which the Department will utilize its authority  
3           under Section 404 of this Act;

4           (D-20) ~~(D-15)~~ For taxable years beginning on or  
5 after January 1, 2002, in the case of a distribution  
6 from a qualified tuition program under Section 529 of  
7 the Internal Revenue Code, other than (i) a  
8 distribution from a College Savings Pool created under  
9 Section 16.5 of the State Treasurer Act or (ii) a  
10 distribution from the Illinois Prepaid Tuition Trust  
11 Fund, an amount equal to the amount excluded from gross  
12 income under Section 529(c)(3)(B);

13 and by deducting from the total so obtained the sum of the  
14 following amounts:

15           (E) For taxable years ending before December 31,  
16 2001, any amount included in such total in respect of  
17 any compensation (including but not limited to any  
18 compensation paid or accrued to a serviceman while a  
19 prisoner of war or missing in action) paid to a  
20 resident by reason of being on active duty in the Armed  
21 Forces of the United States and in respect of any  
22 compensation paid or accrued to a resident who as a  
23 governmental employee was a prisoner of war or missing  
24 in action, and in respect of any compensation paid to a  
25 resident in 1971 or thereafter for annual training  
26 performed pursuant to Sections 502 and 503, Title 32,  
27 United States Code as a member of the Illinois National  
28 Guard. For taxable years ending on or after December  
29 31, 2001, any amount included in such total in respect  
30 of any compensation (including but not limited to any  
31 compensation paid or accrued to a serviceman while a  
32 prisoner of war or missing in action) paid to a  
33 resident by reason of being a member of any component  
34 of the Armed Forces of the United States and in respect

1 of any compensation paid or accrued to a resident who  
2 as a governmental employee was a prisoner of war or  
3 missing in action, and in respect of any compensation  
4 paid to a resident in 2001 or thereafter by reason of  
5 being a member of the Illinois National Guard. The  
6 provisions of this amendatory Act of the 92nd General  
7 Assembly are exempt from the provisions of Section 250;

8 (F) An amount equal to all amounts included in such  
9 total pursuant to the provisions of Sections 402(a),  
10 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
11 Internal Revenue Code, or included in such total as  
12 distributions under the provisions of any retirement  
13 or disability plan for employees of any governmental  
14 agency or unit, or retirement payments to retired  
15 partners, which payments are excluded in computing net  
16 earnings from self employment by Section 1402 of the  
17 Internal Revenue Code and regulations adopted pursuant  
18 thereto;

19 (G) The valuation limitation amount;

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

23 (I) An amount equal to all amounts included in such  
24 total pursuant to the provisions of Section 111 of the  
25 Internal Revenue Code as a recovery of items previously  
26 deducted from adjusted gross income in the computation  
27 of taxable income;

28 (J) An amount equal to those dividends included in  
29 such total which were paid by a corporation which  
30 conducts business operations in an Enterprise Zone or  
31 zones created under the Illinois Enterprise Zone Act,  
32 and conducts substantially all of its operations in an  
33 Enterprise Zone or zones;

34 (K) An amount equal to those dividends included in

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

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

14          (M) With the exception of any amounts subtracted  
15          under subparagraph (N), an amount equal to the sum of  
16          all amounts disallowed as deductions by (i) Sections  
17          171(a) (2), and 265(2) of the Internal Revenue Code of  
18          1954, as now or hereafter amended, and all amounts of  
19          expenses allocable to interest and disallowed as  
20          deductions by Section 265(1) of the Internal Revenue  
21          Code of 1954, as now or hereafter amended; and (ii) for  
22          taxable years ending on or after August 13, 1999,  
23          Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
24          the Internal Revenue Code; the provisions of this  
25          subparagraph are exempt from the provisions of Section  
26          250;

27          (N) An amount equal to all amounts included in such  
28          total which are exempt from taxation by this State  
29          either by reason of its statutes or Constitution or by  
30          reason of the Constitution, treaties or statutes of the  
31          United States; provided that, in the case of any  
32          statute of this State that exempts income derived from  
33          bonds or other obligations from the tax imposed under  
34          this Act, the amount exempted shall be the interest net

1 of bond premium amortization;

2 (O) An amount equal to any contribution made to a  
3 job training project established pursuant to the Tax  
4 Increment Allocation Redevelopment Act;

5 (P) An amount equal to the amount of the deduction  
6 used to compute the federal income tax credit for  
7 restoration of substantial amounts held under claim of  
8 right for the taxable year pursuant to Section 1341 of  
9 the Internal Revenue Code of 1986;

10 (Q) An amount equal to any amounts included in such  
11 total, received by the taxpayer as an acceleration in  
12 the payment of life, endowment or annuity benefits in  
13 advance of the time they would otherwise be payable as  
14 an indemnity for a terminal illness;

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

17 (S) An amount, to the extent included in adjusted  
18 gross income, equal to the amount of a contribution  
19 made in the taxable year on behalf of the taxpayer to a  
20 medical care savings account established under the  
21 Medical Care Savings Account Act or the Medical Care  
22 Savings Account Act of 2000 to the extent the  
23 contribution is accepted by the account administrator  
24 as provided in that Act;

25 (T) An amount, to the extent included in adjusted  
26 gross income, equal to the amount of interest earned in  
27 the taxable year on a medical care savings account  
28 established under the Medical Care Savings Account Act  
29 or the Medical Care Savings Account Act of 2000 on  
30 behalf of the taxpayer, other than interest added  
31 pursuant to item (D-5) of this paragraph (2);

32 (U) For one taxable year beginning on or after  
33 January 1, 1994, an amount equal to the total amount of  
34 tax imposed and paid under subsections (a) and (b) of

1 Section 201 of this Act on grant amounts received by  
2 the taxpayer under the Nursing Home Grant Assistance  
3 Act during the taxpayer's taxable years 1992 and 1993;

4 (V) Beginning with tax years ending on or after  
5 December 31, 1995 and ending with tax years ending on  
6 or before December 31, 2004, an amount equal to the  
7 amount paid by a taxpayer who is a self-employed  
8 taxpayer, a partner of a partnership, or a shareholder  
9 in a Subchapter S corporation for health insurance or  
10 long-term care insurance for that taxpayer or that  
11 taxpayer's spouse or dependents, to the extent that the  
12 amount paid for that health insurance or long-term care  
13 insurance may be deducted under Section 213 of the  
14 Internal Revenue Code of 1986, has not been deducted on  
15 the federal income tax return of the taxpayer, and does  
16 not exceed the taxable income attributable to that  
17 taxpayer's income, self-employment income, or  
18 Subchapter S corporation income; except that no  
19 deduction shall be allowed under this item (V) if the  
20 taxpayer is eligible to participate in any health  
21 insurance or long-term care insurance plan of an  
22 employer of the taxpayer or the taxpayer's spouse. The  
23 amount of the health insurance and long-term care  
24 insurance subtracted under this item (V) shall be  
25 determined by multiplying total health insurance and  
26 long-term care insurance premiums paid by the taxpayer  
27 times a number that represents the fractional  
28 percentage of eligible medical expenses under Section  
29 213 of the Internal Revenue Code of 1986 not actually  
30 deducted on the taxpayer's federal income tax return;

31 (W) For taxable years beginning on or after January  
32 1, 1998, all amounts included in the taxpayer's federal  
33 gross income in the taxable year from amounts converted  
34 from a regular IRA to a Roth IRA. This paragraph is

1 exempt from the provisions of Section 250;

2 (X) For taxable year 1999 and thereafter, an amount  
3 equal to the amount of any (i) distributions, to the  
4 extent includible in gross income for federal income  
5 tax purposes, made to the taxpayer because of his or  
6 her status as a victim of persecution for racial or  
7 religious reasons by Nazi Germany or any other Axis  
8 regime or as an heir of the victim and (ii) items of  
9 income, to the extent includible in gross income for  
10 federal income tax purposes, attributable to, derived  
11 from or in any way related to assets stolen from,  
12 hidden from, or otherwise lost to a victim of  
13 persecution for racial or religious reasons by Nazi  
14 Germany or any other Axis regime immediately prior to,  
15 during, and immediately after World War II, including,  
16 but not limited to, interest on the proceeds receivable  
17 as insurance under policies issued to a victim of  
18 persecution for racial or religious reasons by Nazi  
19 Germany or any other Axis regime by European insurance  
20 companies immediately prior to and during World War II;  
21 provided, however, this subtraction from federal  
22 adjusted gross income does not apply to assets acquired  
23 with such assets or with the proceeds from the sale of  
24 such assets; provided, further, this paragraph shall  
25 only apply to a taxpayer who was the first recipient of  
26 such assets after their recovery and who is a victim of  
27 persecution for racial or religious reasons by Nazi  
28 Germany or any other Axis regime or as an heir of the  
29 victim. The amount of and the eligibility for any  
30 public assistance, benefit, or similar entitlement is  
31 not affected by the inclusion of items (i) and (ii) of  
32 this paragraph in gross income for federal income tax  
33 purposes. This paragraph is exempt from the provisions  
34 of Section 250;



1 (Y) For taxable years beginning on or after January  
2 1, 2002, moneys contributed in the taxable year to a  
3 College Savings Pool account under Section 16.5 of the  
4 State Treasurer Act, except that amounts excluded from  
5 gross income under Section 529(c)(3) (C)(i) of the  
6 Internal Revenue Code shall not be considered moneys  
7 contributed under this subparagraph (Y). This  
8 subparagraph (Y) is exempt from the provisions of  
9 Section 250;

10 (Z) For taxable years 2001 and thereafter, for the  
11 taxable year in which the bonus depreciation deduction  
12 (30% of the adjusted basis of the qualified property)  
13 is taken on the taxpayer's federal income tax return  
14 under subsection (k) of Section 168 of the Internal  
15 Revenue Code and for each applicable taxable year  
16 thereafter, an amount equal to "x", where:

17 (1) "y" equals the amount of the depreciation  
18 deduction taken for the taxable year on the  
19 taxpayer's federal income tax return on property  
20 for which the bonus depreciation deduction (30% of  
21 the adjusted basis of the qualified property) 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; and

25 (2) "x" equals "y" multiplied by 30 and then  
26 divided by 70 (or "y" multiplied by 0.429).

27 The aggregate amount deducted under this  
28 subparagraph in all taxable years for any one piece of  
29 property may not exceed the amount of the bonus  
30 depreciation deduction (30% of the adjusted basis of  
31 the qualified property) taken on that property on the  
32 taxpayer's federal income tax return under subsection  
33 (k) of Section 168 of the Internal Revenue Code; ~~and~~

34 (AA) If the taxpayer reports a capital gain or loss

1 on the taxpayer's federal income tax return for the  
2 taxable year based on a sale or transfer of property  
3 for which the taxpayer was required in any taxable year  
4 to make an addition modification under subparagraph  
5 (D-15), then an amount equal to that addition  
6 modification.

7 The taxpayer is allowed to take the deduction under  
8 this subparagraph only once with respect to any one  
9 piece of property; ~~and~~

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

13 (CC) 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-13),  
19 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
20 the amount of that 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-14), 203(c)(2)(G-13), or  
27 203(d)(2)(D-8), but not to exceed the amount of that  
28 addition modification;

29 (DD) An amount equal to the interest income taken  
30 into account for the taxable year (net of the  
31 deductions allocable thereto) with respect to  
32 transactions with a foreign person who would be a  
33 member of the taxpayer's unitary business group but for  
34 the fact that the foreign person's business activity

1 outside the United States is 80% or more of that  
2 person's total business activity, but not to exceed the  
3 addition modification required to be made for the same  
4 taxable year under Section 203(a)(2)(D-17) for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, to the same foreign person; and

7 (EE) An amount equal to the income from intangible  
8 property taken into account for the taxable year (net  
9 of the deductions allocable thereto) with respect to  
10 transactions with a foreign person who would be a  
11 member of the taxpayer's unitary business group but for  
12 the fact that the foreign person's business activity  
13 outside the United States is 80% or more of that  
14 person's total business activity, but not to exceed the  
15 addition modification required to be made for the same  
16 taxable year under Section 203(a)(2)(D-18) for  
17 intangible expenses and costs paid, accrued, or  
18 incurred, directly or indirectly, to the same foreign  
19 person.

20 (b) Corporations.

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

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

27 (A) An amount equal to all amounts paid or accrued  
28 to the taxpayer as interest and all distributions  
29 received from regulated investment companies during  
30 the taxable year to the extent excluded from gross  
31 income in the computation of taxable income;

32 (B) An amount equal to the amount of tax imposed by  
33 this Act to the extent deducted from gross income in

1 the computation of taxable income for the taxable year;

2 (C) In the case of a regulated investment company,  
3 an amount equal to the excess of (i) the net long-term  
4 capital gain for the taxable year, over (ii) the amount  
5 of the capital gain dividends designated as such in  
6 accordance with Section 852(b)(3)(C) of the Internal  
7 Revenue Code and any amount designated under Section  
8 852(b)(3)(D) of the Internal Revenue Code,  
9 attributable to the taxable year (this amendatory Act  
10 of 1995 (Public Act 89-89) is declarative of existing  
11 law and is not a new enactment);

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

16 (E) For taxable years in which a net operating loss  
17 carryback or carryforward from a taxable year ending  
18 prior to December 31, 1986 is an element of taxable  
19 income under paragraph (1) of subsection (e) or  
20 subparagraph (E) of paragraph (2) of subsection (e),  
21 the amount by which addition modifications other than  
22 those provided by this subparagraph (E) exceeded  
23 subtraction modifications in such earlier taxable  
24 year, with the following limitations applied in the  
25 order that they are listed:

26 (i) the addition modification relating to the  
27 net operating loss carried back or forward to the  
28 taxable year from any taxable year ending prior to  
29 December 31, 1986 shall be reduced by the amount of  
30 addition modification under this subparagraph (E)  
31 which related to that net operating loss and which  
32 was taken into account in calculating the base  
33 income of an earlier taxable year, and

34 (ii) the addition modification relating to the

1 net operating loss carried back or forward to the  
2 taxable year from any taxable year ending prior to  
3 December 31, 1986 shall not exceed the amount of  
4 such carryback or carryforward;

5 For taxable years in which there is a net operating  
6 loss carryback or carryforward from more than one other  
7 taxable year ending prior to December 31, 1986, the  
8 addition modification provided in this subparagraph  
9 (E) shall be the sum of the amounts computed  
10 independently under the preceding provisions of this  
11 subparagraph (E) for each such taxable year;

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

17 (E-10) For taxable years 2001 and thereafter, an  
18 amount equal to the bonus depreciation deduction (30%  
19 of the adjusted basis of the qualified property) 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 (E-11) If the taxpayer reports a capital gain or  
24 loss on the taxpayer's federal income tax return for  
25 the taxable year based on a sale or transfer of  
26 property for which the taxpayer was required in any  
27 taxable year to make an addition modification under  
28 subparagraph (E-10), then an amount equal to the  
29 aggregate amount of the deductions taken in all taxable  
30 years under subparagraph (T) with respect to that  
31 property;

32 The taxpayer is required to make the addition  
33 modification under this subparagraph only once with  
34 respect to any one piece of property;

1           (E-12) For taxable years ending on or after  
2           December 31, 2004, an amount equal to the amount  
3           otherwise allowed as a deduction in computing base  
4           income for interest paid, accrued, or incurred,  
5           directly or indirectly, to a foreign person who would  
6           be a member of the same unitary business group but for  
7           the fact the foreign person's business activity  
8           outside the United States is 80% or more of the foreign  
9           person's total business activity. The addition  
10           modification required by this subparagraph shall be  
11           reduced to the extent that dividends were included in  
12           base income of the unitary group for the same taxable  
13           year and received by the taxpayer or by a member of the  
14           taxpayer's unitary business group (including amounts  
15           included in gross income pursuant to Sections 951  
16           through 964 of the Internal Revenue Code and amounts  
17           included in gross income under Section 78 of the  
18           Internal Revenue Code) with respect to the stock of the  
19           same person to whom the interest was paid, accrued, or  
20           incurred.

21           This paragraph shall not apply to the following:

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

28           (ii) an item of interest paid, accrued, or  
29           incurred, directly or indirectly, to a foreign  
30           person if the taxpayer can establish, based on a  
31           preponderance of the evidence, both of the  
32           following:

33           (a) the foreign person, during the same  
34           taxable year, paid, accrued, or incurred, the

1 interest to a person that is not a related  
2 member, and

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

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

16 (iv) an item of interest paid, accrued, or  
17 incurred, directly or indirectly, to a foreign  
18 person if the taxpayer establishes by clear and  
19 convincing evidence that the adjustments are  
20 unreasonable; or if the taxpayer and the Director  
21 agree in writing to the application or use of an  
22 alternative method of apportionment under Section  
23 304(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  
27 any tax year beginning after the effective date of  
28 this amendment provided such adjustment is made  
29 pursuant to regulation adopted by the Department  
30 and such regulations provide methods and standards  
31 by which the Department will utilize its authority  
32 under Section 404 of this Act;

33 (E-13) For taxable years ending on or after  
34 December 31, 2004, an amount equal to the amount of

1 intangible expenses and costs otherwise allowed as a  
2 deduction in computing base income, and that were paid,  
3 accrued, or incurred, directly or indirectly, to a  
4 foreign person who would be a member of the same  
5 unitary business group but for the fact that the  
6 foreign person's business activity outside the United  
7 States is 80% or more of that person's total business  
8 activity. The addition modification required by this  
9 subparagraph shall be reduced to the extent that  
10 dividends were included in base income of the unitary  
11 group for the same taxable year and received by the  
12 taxpayer or by a member of the taxpayer's unitary  
13 business group (including amounts included in gross  
14 income pursuant to Sections 951 through 964 of the  
15 Internal Revenue Code and amounts included in gross  
16 income under Section 78 of the Internal Revenue Code)  
17 with respect to the stock of the same person to whom  
18 the intangible expenses and costs were directly or  
19 indirectly paid, incurred, or accrued. The preceding  
20 sentence shall not apply to the extent that the same  
21 dividends caused a reduction to the addition  
22 modification required under Section 203(b) (2) (E-12) of  
23 this Act. As used in this subparagraph, the term  
24 "intangible expenses and costs" includes (1) expenses,  
25 losses, and costs for, or related to, the direct or  
26 indirect acquisition, use, maintenance or management,  
27 ownership, sale, exchange, or any other disposition of  
28 intangible property; (2) losses incurred, directly or  
29 indirectly, from factoring transactions or discounting  
30 transactions; (3) royalty, patent, technical, and  
31 copyright fees; (4) licensing fees; and (5) other  
32 similar expenses and costs. For purposes of this  
33 subparagraph, "intangible property" includes patents,  
34 patent applications, trade names, trademarks, service



1 marks, copyrights, mask works, trade secrets, and  
2 similar types of intangible assets.

3 This paragraph shall not apply to the following:

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

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

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

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

27 (iii) any item of intangible expense or  
28 cost paid, accrued, or incurred, directly or  
29 indirectly, from a transaction with a foreign  
30 person if the taxpayer establishes by clear and  
31 convincing evidence, that the adjustments are  
32 unreasonable; or if the taxpayer and the Director  
33 agree in writing to the application or use of an  
34 alternative method of apportionment under section

1           304(f);

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

11          and by deducting from the total so obtained the sum of the  
12          following amounts:

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

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

18                 (H) In the case of a regulated investment company,  
19                 an amount equal to the amount of exempt interest  
20                 dividends as defined in subsection (b) (5) of Section  
21                 852 of the Internal Revenue Code, paid to shareholders  
22                 for the taxable year;

23                 (I) With the exception of any amounts subtracted  
24                 under subparagraph (J), an amount equal to the sum of  
25                 all amounts disallowed as deductions by (i) Sections  
26                 171(a) (2), and 265(a) (2) and amounts disallowed as  
27                 interest expense by Section 291(a) (3) of the Internal  
28                 Revenue Code, as now or hereafter amended, and all  
29                 amounts of expenses allocable to interest and  
30                 disallowed as deductions by Section 265(a) (1) of the  
31                 Internal Revenue Code, as now or hereafter amended; and  
32                 (ii) for taxable years ending on or after August 13,  
33                 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and  
34                 832(b) (5) (B) (i) of the Internal Revenue Code; the

1 provisions of this subparagraph are exempt from the  
2 provisions of Section 250;

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

12 (K) An amount equal to those dividends included in  
13 such total which were paid by a corporation which  
14 conducts business operations in an Enterprise Zone or  
15 zones created under the Illinois Enterprise Zone Act  
16 and conducts substantially all of its operations in an  
17 Enterprise Zone or zones;

18 (L) An amount equal to those dividends included in  
19 such total that were paid by a corporation that  
20 conducts business operations in a federally designated  
21 Foreign Trade Zone or Sub-Zone and that is designated a  
22 High Impact Business located in Illinois; provided  
23 that dividends eligible for the deduction provided in  
24 subparagraph (K) of paragraph 2 of this subsection  
25 shall not be eligible for the deduction provided under  
26 this subparagraph (L);

27 (M) For any taxpayer that is a financial  
28 organization within the meaning of Section 304(c) of  
29 this Act, an amount included in such total as interest  
30 income from a loan or loans made by such taxpayer to a  
31 borrower, to the extent that such a loan is secured by  
32 property which is eligible for the Enterprise Zone  
33 Investment Credit. To determine the portion of a loan  
34 or loans that is secured by property eligible for a

1 Section 201(f) investment credit to the borrower, the  
2 entire principal amount of the loan or loans between  
3 the taxpayer and the borrower should be divided into  
4 the basis of the Section 201(f) investment credit  
5 property which secures the loan or loans, using for  
6 this purpose the original basis of such property on the  
7 date that it was placed in service in the Enterprise  
8 Zone. The subtraction modification available to  
9 taxpayer in any year under this subsection shall be  
10 that portion of the total interest paid by the borrower  
11 with respect to such loan attributable to the eligible  
12 property as calculated under the previous sentence;

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

1 total interest paid by the borrower with respect to  
2 such loan attributable to the eligible property as  
3 calculated under the previous sentence;

4 (N) Two times any contribution made during the  
5 taxable year to a designated zone organization to the  
6 extent that the contribution (i) qualifies as a  
7 charitable contribution under subsection (c) of  
8 Section 170 of the Internal Revenue Code and (ii) must,  
9 by its terms, be used for a project approved by the  
10 Department of Commerce and Economic Opportunity  
11 ~~Community Affairs~~ under Section 11 of the Illinois  
12 Enterprise Zone Act;

13 (O) An amount equal to: (i) 85% for taxable years  
14 ending on or before December 31, 1992, or, a percentage  
15 equal to the percentage allowable under Section  
16 243(a)(1) of the Internal Revenue Code of 1986 for  
17 taxable years ending after December 31, 1992, of the  
18 amount by which dividends included in taxable income  
19 and received from a corporation that is not created or  
20 organized under the laws of the United States or any  
21 state or political subdivision thereof, including, for  
22 taxable years ending on or after December 31, 1988,  
23 dividends received or deemed received or paid or deemed  
24 paid under Sections 951 through 964 of the Internal  
25 Revenue Code, exceed the amount of the modification  
26 provided under subparagraph (G) of paragraph (2) of  
27 this subsection (b) which is related to such dividends;  
28 plus (ii) 100% of the amount by which dividends,  
29 included in taxable income and received, including,  
30 for taxable years ending on or after December 31, 1988,  
31 dividends received or deemed received or paid or deemed  
32 paid under Sections 951 through 964 of the Internal  
33 Revenue Code, from any such corporation specified in  
34 clause (i) that would but for the provisions of Section

1 1504 (b) (3) of the Internal Revenue Code be treated as  
2 a member of the affiliated group which includes the  
3 dividend recipient, exceed the amount of the  
4 modification provided under subparagraph (G) of  
5 paragraph (2) of this subsection (b) which is related  
6 to such dividends;

7 (P) An amount equal to any contribution made to a  
8 job training project established pursuant to the Tax  
9 Increment Allocation Redevelopment Act;

10 (Q) 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 of 1986;

15 (R) In the case of an attorney-in-fact with respect  
16 to whom an interinsurer or a reciprocal insurer has  
17 made the election under Section 835 of the Internal  
18 Revenue Code, 26 U.S.C. 835, an amount equal to the  
19 excess, if any, of the amounts paid or incurred by that  
20 interinsurer or reciprocal insurer in the taxable year  
21 to the attorney-in-fact over the deduction allowed to  
22 that interinsurer or reciprocal insurer with respect  
23 to the attorney-in-fact under Section 835(b) of the  
24 Internal Revenue Code for the taxable year;

25 (S) For taxable years ending on or after December  
26 31, 1997, in the case of a Subchapter S corporation, an  
27 amount equal to all amounts of income allocable to a  
28 shareholder subject to the Personal Property Tax  
29 Replacement Income Tax imposed by subsections (c) and  
30 (d) of Section 201 of this Act, including amounts  
31 allocable to organizations exempt from federal income  
32 tax by reason of Section 501(a) of the Internal Revenue  
33 Code. This subparagraph (S) is exempt from the  
34 provisions of Section 250;

1 (T) For taxable years 2001 and thereafter, for the  
2 taxable year in which the bonus depreciation deduction  
3 (30% of the adjusted basis of the qualified property)  
4 is taken on the taxpayer's federal income tax return  
5 under subsection (k) of Section 168 of the Internal  
6 Revenue Code and for each applicable taxable year  
7 thereafter, an amount equal to "x", where:

8 (1) "y" equals the amount of the depreciation  
9 deduction taken for the taxable year on the  
10 taxpayer's federal income tax return on property  
11 for which the bonus depreciation deduction (30% of  
12 the adjusted basis of the qualified property) was  
13 taken in any year under subsection (k) of Section  
14 168 of the Internal Revenue Code, but not including  
15 the bonus depreciation deduction; and

16 (2) "x" equals "y" multiplied by 30 and then  
17 divided by 70 (or "y" multiplied by 0.429).

18 The aggregate amount deducted under this  
19 subparagraph in all taxable years for any one piece of  
20 property may not exceed the amount of the bonus  
21 depreciation deduction (30% of the adjusted basis of  
22 the qualified property) taken on that property on the  
23 taxpayer's federal income tax return under subsection  
24 (k) of Section 168 of the Internal Revenue Code; ~~and~~

25 (U) If the taxpayer reports a capital gain or loss  
26 on the taxpayer's federal income tax return for the  
27 taxable year based on a sale or transfer of property  
28 for which the taxpayer was required in any taxable year  
29 to make an addition modification under subparagraph  
30 (E-10), then an amount equal to that addition  
31 modification.

32 The taxpayer is allowed to take the deduction under  
33 this subparagraph only once with respect to any one  
34 piece of property; ~~and~~

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

17           (W) An amount equal to the interest income taken  
18           into account for the taxable year (net of the  
19           deductions allocable thereto) with respect to  
20           transactions with a foreign person who would be a  
21           member of the taxpayer's unitary business group but for  
22           the fact that the foreign person's business activity  
23           outside the United States is 80% or more of that  
24           person's total business activity, but not to exceed the  
25           addition modification required to be made for the same  
26           taxable year under Section 203(b)(2)(E-12) for  
27           interest paid, accrued, or incurred, directly or  
28           indirectly, to the same foreign person; and

29           (X) An amount equal to the income from intangible  
30           property taken into account for the taxable year (net  
31           of the deductions allocable thereto) with respect to  
32           transactions with a foreign person who would be a  
33           member of the taxpayer's unitary business group but for  
34           the fact that the foreign person's business activity



1       outside the United States is 80% or more of that  
2       person's total business activity, but not to exceed the  
3       addition modification required to be made for the same  
4       taxable year under Section 203(b)(2)(E-13) for  
5       intangible expenses and costs paid, accrued, or  
6       incurred, directly or indirectly, to the same foreign  
7       person.

8       (3) Special rule. For purposes of paragraph (2) (A),  
9       "gross income" in the case of a life insurance company, for  
10      tax years ending on and after December 31, 1994, shall mean  
11      the gross investment income for the taxable year.

12      (c) Trusts and estates.

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

16      (2) Modifications. Subject to the provisions of  
17      paragraph (3), the taxable income referred to in paragraph  
18      (1) shall be modified by adding thereto the sum of the  
19      following amounts:

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

24           (B) In the case of (i) an estate, \$600; (ii) a  
25           trust which, under its governing instrument, is  
26           required to distribute all of its income currently,  
27           \$300; and (iii) any other trust, \$100, but in each such  
28           case, only to the extent such amount was deducted in  
29           the computation of taxable income;

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

33           (D) The amount of any net operating loss deduction

1 taken in arriving at taxable income, other than a net  
2 operating loss carried forward from a taxable year  
3 ending prior to December 31, 1986;

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

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

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

27 For taxable years in which there is a net operating  
28 loss carryback or carryforward from more than one other  
29 taxable year ending prior to December 31, 1986, the  
30 addition modification provided in this subparagraph  
31 (E) shall be the sum of the amounts computed  
32 independently under the preceding provisions of this  
33 subparagraph (E) for each such taxable year;

34 (F) For taxable years ending on or after January 1,

1 1989, an amount equal to the tax deducted pursuant to  
2 Section 164 of the Internal Revenue Code if the trust  
3 or estate is claiming the same tax for purposes of the  
4 Illinois foreign tax credit under Section 601 of this  
5 Act;

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

10 (G-5) For taxable years ending after December 31,  
11 1997, an amount equal to any eligible remediation costs  
12 that the trust or estate deducted in computing adjusted  
13 gross income and for which the trust or estate claims a  
14 credit under subsection (l) of Section 201;

15 (G-10) For taxable years 2001 and thereafter, an  
16 amount equal to the bonus depreciation deduction (30%  
17 of the adjusted basis of the qualified property) taken  
18 on the taxpayer's federal income tax return for the  
19 taxable year under subsection (k) of Section 168 of the  
20 Internal Revenue Code; and

21 (G-11) If the taxpayer reports a capital gain or  
22 loss on the taxpayer's federal income tax return for  
23 the taxable year based on a sale or transfer of  
24 property for which the taxpayer was required in any  
25 taxable year to make an addition modification under  
26 subparagraph (G-10), then an amount equal to the  
27 aggregate amount of the deductions taken in all taxable  
28 years under subparagraph (R) with respect to that  
29 property;

30 The taxpayer is required to make the addition  
31 modification under this subparagraph only once with  
32 respect to any one piece of property;

33 (G-12) For taxable years ending on or after  
34 December 31, 2004, an amount equal to the amount

1 otherwise allowed as a deduction in computing base  
2 income for interest paid, accrued, or incurred,  
3 directly or indirectly, to a foreign person who would  
4 be a member of the same unitary business group but for  
5 the fact that the foreign person's business activity  
6 outside the United States is 80% or more of the foreign  
7 person's total business activity. The addition  
8 modification required by this subparagraph shall be  
9 reduced to the extent that dividends were included in  
10 base income of the unitary group for the same taxable  
11 year and received by the taxpayer or by a member of the  
12 taxpayer's unitary business group (including amounts  
13 included in gross income pursuant to Sections 951  
14 through 964 of the Internal Revenue Code and amounts  
15 included in gross income under Section 78 of the  
16 Internal Revenue Code) with respect to the stock of the  
17 same person to whom the interest was paid, accrued, or  
18 incurred.

19 This paragraph shall not apply to the following:

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

26 (ii) an item of interest paid, accrued, or  
27 incurred, directly or indirectly, to a foreign  
28 person if the taxpayer can establish, based on a  
29 preponderance of the evidence, both of the  
30 following:

31 (a) the foreign person, during the same  
32 taxable year, paid, accrued, or incurred, the  
33 interest to a person that is not a related  
34 member, and

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

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

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

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

31          (G-13) For taxable years ending on or after  
32          December 31, 2004, an amount equal to the amount of  
33          intangible expenses and costs otherwise allowed as a  
34          deduction in computing base income, and that were paid,

1 accrued, or incurred, directly or indirectly, to a  
2 foreign person who would be a member of the same  
3 unitary business group but for the fact that the  
4 foreign person's business activity outside the United  
5 States is 80% or more of that person's total business  
6 activity. The addition modification required by this  
7 subparagraph shall be reduced to the extent that  
8 dividends were included in base income of the unitary  
9 group for the same taxable year and received by the  
10 taxpayer or by a member of the taxpayer's unitary  
11 business group (including amounts included in gross  
12 income pursuant to Sections 951 through 964 of the  
13 Internal Revenue Code and amounts included in gross  
14 income under Section 78 of the Internal Revenue Code)  
15 with respect to the stock of the same person to whom  
16 the intangible expenses and costs were directly or  
17 indirectly paid, incurred, or accrued. The preceding  
18 sentence shall not apply to the extent that the same  
19 dividends caused a reduction to the addition  
20 modification required under Section 203(c)(2)(G-12) of  
21 this Act. As used in this subparagraph, the term  
22 "intangible expenses and costs" includes: (1)  
23 expenses, losses, and costs for or related to the  
24 direct or indirect acquisition, use, maintenance or  
25 management, ownership, sale, exchange, or any other  
26 disposition of intangible property; (2) losses  
27 incurred, directly or indirectly, from factoring  
28 transactions or discounting transactions; (3) royalty,  
29 patent, technical, and copyright fees; (4) licensing  
30 fees; and (5) other similar expenses and costs. For  
31 purposes of this subparagraph, "intangible property"  
32 includes patents, patent applications, trade names,  
33 trademarks, service marks, copyrights, mask works,  
34 trade secrets, and similar types of intangible assets.

1           This paragraph shall not apply to the following:

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

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

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

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

25                   (iii) any item of intangible expense or  
26                   cost paid, accrued, or incurred, directly or  
27                   indirectly, from a transaction with a foreign  
28                   person if the taxpayer establishes by clear and  
29                   convincing evidence, that the adjustments are  
30                   unreasonable; or if the taxpayer and the Director  
31                   agree in writing to the application or use of an  
32                   alternative method of apportionment under section  
33                   304(f);

34                   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           and by deducting from the total so obtained the sum of the  
10          following amounts:

11                 (H) An amount equal to all amounts included in such  
12                 total pursuant to the provisions of Sections 402(a),  
13                 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
14                 Internal Revenue Code or included in such total as  
15                 distributions under the provisions of any retirement  
16                 or disability plan for employees of any governmental  
17                 agency or unit, or retirement payments to retired  
18                 partners, which payments are excluded in computing net  
19                 earnings from self employment by Section 1402 of the  
20                 Internal Revenue Code and regulations adopted pursuant  
21                 thereto;

22                 (I) The valuation limitation amount;

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

26                 (K) An amount equal to all amounts included in  
27                 taxable income as modified by subparagraphs (A), (B),  
28                 (C), (D), (E), (F) and (G) which are exempt from  
29                 taxation by this State either by reason of its statutes  
30                 or Constitution or by reason of the Constitution,  
31                 treaties or statutes of the United States; provided  
32                 that, in the case of any statute of this State that  
33                 exempts income derived from bonds or other obligations  
34                 from the tax imposed under this Act, the amount



1           exempted shall be the interest net of bond premium  
2           amortization;

3           (L) With the exception of any amounts subtracted  
4           under subparagraph (K), an amount equal to the sum of  
5           all amounts disallowed as deductions by (i) Sections  
6           171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
7           as now or hereafter amended, and all amounts of  
8           expenses allocable to interest and disallowed as  
9           deductions by Section 265(1) of the Internal Revenue  
10          Code of 1954, as now or hereafter amended; and (ii) for  
11          taxable years ending on or after August 13, 1999,  
12          Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
13          the 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 an Enterprise Zone or  
19          zones created under the Illinois Enterprise Zone Act  
20          and conducts substantially all of its operations in an  
21          Enterprise Zone or Zones;

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

25          (O) An amount equal to those dividends included in  
26          such total that were paid by a corporation that  
27          conducts business operations in a federally designated  
28          Foreign Trade Zone or Sub-Zone and that is designated a  
29          High Impact Business located in Illinois; provided  
30          that dividends eligible for the deduction provided in  
31          subparagraph (M) of paragraph (2) of this subsection  
32          shall not be eligible for the deduction provided under  
33          this subparagraph (O);

34          (P) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for  
2 restoration of substantial amounts held under claim of  
3 right for the taxable year pursuant to Section 1341 of  
4 the Internal Revenue Code of 1986;

5 (Q) For taxable year 1999 and thereafter, an amount  
6 equal to the amount of any (i) distributions, to the  
7 extent includible in gross income for federal income  
8 tax purposes, made to the taxpayer because of his or  
9 her status as a victim of persecution for racial or  
10 religious reasons by Nazi Germany or any other Axis  
11 regime or as an heir of the victim and (ii) items of  
12 income, to the extent includible in gross income for  
13 federal income tax purposes, attributable to, derived  
14 from or in any way related to assets stolen from,  
15 hidden from, or otherwise lost to a victim of  
16 persecution for racial or religious reasons by Nazi  
17 Germany or any other Axis regime immediately prior to,  
18 during, and immediately after World War II, including,  
19 but not limited to, interest on the proceeds receivable  
20 as insurance under policies issued to a victim of  
21 persecution for racial or religious reasons by Nazi  
22 Germany or any other Axis regime by European insurance  
23 companies immediately prior to and during World War II;  
24 provided, however, this subtraction from federal  
25 adjusted gross income does not apply to assets acquired  
26 with such assets or with the proceeds from the sale of  
27 such assets; provided, further, this paragraph shall  
28 only apply to a taxpayer who was the first recipient of  
29 such assets after their recovery and who is a victim of  
30 persecution for racial or religious reasons by Nazi  
31 Germany or any other Axis regime or as an heir of the  
32 victim. The amount of and the eligibility for any  
33 public assistance, benefit, or similar entitlement is  
34 not affected by the inclusion of items (i) and (ii) of

1           this paragraph in gross income for federal income tax  
2           purposes. This paragraph is exempt from the provisions  
3           of Section 250;

4           (R) For taxable years 2001 and thereafter, for the  
5           taxable year in which the bonus depreciation deduction  
6           (30% of the adjusted basis of the qualified property)  
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 (30% of  
15          the adjusted basis of the qualified property) was  
16          taken in any year under subsection (k) of Section  
17          168 of the Internal Revenue Code, but not including  
18          the bonus depreciation deduction; and

19           (2) "x" equals "y" multiplied by 30 and then  
20          divided by 70 (or "y" multiplied by 0.429).

21          The aggregate amount deducted under this  
22          subparagraph in all taxable years for any one piece of  
23          property may not exceed the amount of the bonus  
24          depreciation deduction (30% of the adjusted basis of  
25          the qualified property) taken on that property on the  
26          taxpayer's federal income tax return under subsection  
27          (k) of Section 168 of the Internal Revenue Code; ~~and~~

28          (S) If the taxpayer reports a capital gain or loss  
29          on the taxpayer's federal income tax return for the  
30          taxable year based on a sale or transfer of property  
31          for which the taxpayer was required in any taxable year  
32          to make an addition modification under subparagraph  
33          (G-10), then an amount equal to that addition  
34          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; ~~and~~

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

20           (U) An amount equal to the interest income taken  
21 into account for the taxable year (net of the  
22 deductions allocable thereto) with respect to  
23 transactions with a foreign person who would be a  
24 member of the taxpayer's unitary business group but for  
25 the fact the foreign person's business activity  
26 outside the United States is 80% or more of that  
27 person's total business activity, but not to exceed the  
28 addition modification required to be made for the same  
29 taxable year under Section 203(c)(2)(G-12) for  
30 interest paid, accrued, or incurred, directly or  
31 indirectly, to the same foreign person; and

32           (V) An amount equal to the income from intangible  
33 property taken into account for the taxable year (net  
34 of the deductions allocable thereto) with respect to

1           transactions with 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, but not to exceed the  
6           addition modification required to be made for the same  
7           taxable year under Section 203(c)(2)(G-13) for  
8           intangible expenses and costs paid, accrued, or  
9           incurred, directly or indirectly, to the same foreign  
10           person.

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

18           (d) Partnerships.

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

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

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

29           (B) An amount equal to the amount of tax imposed by  
30 this Act to the extent deducted from gross income for  
31 the taxable year;

32           (C) The amount of deductions allowed to the  
33 partnership pursuant to Section 707 (c) of the Internal

1 Revenue Code in calculating its taxable income;

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

6 (D-5) For taxable years 2001 and thereafter, an  
7 amount equal to the bonus depreciation deduction (30%  
8 of the adjusted basis of the qualified property) taken  
9 on the taxpayer's federal income tax return for the  
10 taxable year under subsection (k) of Section 168 of the  
11 Internal Revenue Code; ~~and~~

12 (D-6) If the taxpayer reports a capital gain or  
13 loss on the taxpayer's federal income tax return for  
14 the taxable year based on a sale or transfer of  
15 property for which the taxpayer was required in any  
16 taxable year to make an addition modification under  
17 subparagraph (D-5), then an amount equal to the  
18 aggregate amount of the deductions taken in all taxable  
19 years under subparagraph (O) with respect to that  
20 property;

21 The taxpayer is required to make the addition  
22 modification under this subparagraph only once with  
23 respect to any one piece of property;

24 (D-7) For taxable years ending on or after December  
25 31, 2004, an amount equal to the amount otherwise  
26 allowed as a deduction in computing base income for  
27 interest paid, accrued, or incurred, directly or  
28 indirectly, to a foreign person who would be a member  
29 of the same unitary business group but for the fact the  
30 foreign person's business activity outside the United  
31 States is 80% or more of the foreign person's total  
32 business activity. The addition modification required  
33 by this subparagraph shall be reduced to the extent  
34 that dividends were included in base income of the

1           unitary group for the same taxable year and received by  
2           the taxpayer or by a member of the taxpayer's unitary  
3           business group (including amounts included in gross  
4           income pursuant to Sections 951 through 964 of the  
5           Internal Revenue Code and amounts included in gross  
6           income under Section 78 of the Internal Revenue Code)  
7           with respect to the stock of the same person to whom  
8           the interest was paid, accrued, or 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 foreign  
12           person who is subject in a foreign country or  
13           state, other than a state which requires mandatory  
14           unitary reporting, to a tax on or measured by net  
15           income with respect to such interest; or

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

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

25           (b) the transaction giving rise to the  
26           interest expense between the taxpayer and the  
27           foreign person did not have as a principal  
28           purpose the avoidance of Illinois income tax,  
29           and is paid pursuant to a contract or agreement  
30           that reflects an arms-length interest rate and  
31           terms; or

32           (iii) the taxpayer can establish, based on  
33           clear and convincing evidence, that the interest  
34           paid, accrued, or incurred relates to a contract or

1 agreement entered into at arm's length rates and  
2 terms and the principal purpose for the payment is  
3 not federal or Illinois tax avoidance; or

4 (iv) an item of interest paid, accrued, or  
5 incurred, directly or indirectly, to a foreign  
6 person if the taxpayer establishes by clear and  
7 convincing evidence that the adjustments are  
8 unreasonable; or if the taxpayer and the Director  
9 agree in writing to the application or use of an  
10 alternative method of apportionment under Section  
11 304(f).

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

21 (D-8) For taxable years ending on or after December  
22 31, 2004, an amount equal to the amount of intangible  
23 expenses and costs otherwise allowed as a deduction in  
24 computing base income, and that were paid, accrued, or  
25 incurred, directly or indirectly, to a foreign person  
26 who would be a member of the same unitary business  
27 group but for the fact that the foreign person's  
28 business activity outside the United States is 80% or  
29 more of that person's total business activity. The  
30 addition modification required by this subparagraph  
31 shall be reduced to the extent that dividends were  
32 included in base income of the unitary group for the  
33 same taxable year and received by the taxpayer or by a  
34 member of the taxpayer's unitary business group



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

25 This paragraph shall not apply to the following:

26 (i) any item of intangible expenses or costs paid,  
27 accrued, or incurred, directly or indirectly, from  
28 a transaction with a foreign person who is subject  
29 in a foreign country or state, other than a state  
30 which requires mandatory unitary reporting, to a  
31 tax on or measured by net income with respect to  
32 such item; or

33 (ii) any item of intangible expense or cost paid,  
34 accrued, or incurred, directly or indirectly, if

1           the taxpayer can establish, based on a  
2           preponderance of the evidence, both of the  
3           following:

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

8           (b) the transaction giving rise to the  
9           intangible expense or cost between the  
10           taxpayer and the foreign person did not have as  
11           a principal purpose the avoidance of Illinois  
12           income tax, and is paid pursuant to a contract  
13           or agreement that reflects arms length terms;

14           or

15           (iii) any item of intangible expense or  
16           cost paid, accrued, or incurred, directly or  
17           indirectly, from a transaction with a foreign  
18           person if the taxpayer establishes by clear and  
19           convincing evidence, that the adjustments are  
20           unreasonable; or if the taxpayer and the Director  
21           agree in writing to the application or use of an  
22           alternative method of apportionment under section  
23           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  
27           any tax year beginning after the effective date of  
28           this amendment provided such adjustment is made  
29           pursuant to regulation adopted by the Department  
30           and such regulations provide methods and standards  
31           by which the Department will utilize its authority  
32           under Section 404 of this Act;

33           and by deducting from the total so obtained the following  
34           amounts:

1 (E) The valuation limitation amount;

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 all amounts included in  
6 taxable income as modified by subparagraphs (A), (B),  
7 (C) and (D) which are exempt from taxation by this  
8 State either by reason of its statutes or Constitution  
9 or by reason of the Constitution, treaties or statutes  
10 of the United States; provided that, in the case of any  
11 statute of this State that exempts income derived from  
12 bonds or other obligations from the tax imposed under  
13 this Act, the amount exempted shall be the interest net  
14 of bond premium amortization;

15 (H) Any income of the partnership which  
16 constitutes personal service income as defined in  
17 Section 1348 (b) (1) of the Internal Revenue Code (as  
18 in effect December 31, 1981) or a reasonable allowance  
19 for compensation paid or accrued for services rendered  
20 by partners to the partnership, whichever is greater;

21 (I) An amount equal to all amounts of income  
22 distributable to an entity subject to the Personal  
23 Property Tax Replacement Income Tax imposed by  
24 subsections (c) and (d) of Section 201 of this Act  
25 including amounts distributable to organizations  
26 exempt from federal income tax by reason of Section  
27 501(a) of the Internal Revenue Code;

28 (J) With the exception of any amounts subtracted  
29 under subparagraph (G), an amount equal to the sum of  
30 all amounts disallowed as deductions by (i) Sections  
31 171(a) (2), and 265(2) of the Internal Revenue Code of  
32 1954, as now or hereafter amended, and all amounts of  
33 expenses allocable to interest and disallowed as  
34 deductions by Section 265(1) of the Internal Revenue

1 Code, as now or hereafter amended; and (ii) for taxable  
2 years ending on or after August 13, 1999, Sections  
3 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the  
4 Internal Revenue Code; the provisions of this  
5 subparagraph are exempt from the provisions of Section  
6 250;

7 (K) An amount equal to those dividends included in  
8 such total which were paid by a corporation which  
9 conducts business operations in an Enterprise Zone or  
10 zones created under the Illinois Enterprise Zone Act,  
11 enacted by the 82nd General Assembly, and conducts  
12 substantially all of its operations in an Enterprise  
13 Zone or Zones;

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

17 (M) An amount equal to those dividends included in  
18 such total that were paid by a corporation that  
19 conducts business operations in a federally designated  
20 Foreign Trade Zone or Sub-Zone and that is designated a  
21 High Impact Business located in Illinois; provided  
22 that dividends eligible for the deduction provided in  
23 subparagraph (K) of paragraph (2) of this subsection  
24 shall not be eligible for the deduction provided under  
25 this subparagraph (M);

26 (N) An amount equal to the amount of the deduction  
27 used to compute the federal income tax credit for  
28 restoration of substantial amounts held under claim of  
29 right for the taxable year pursuant to Section 1341 of  
30 the Internal Revenue Code of 1986;

31 (O) For taxable years 2001 and thereafter, for the  
32 taxable year in which the bonus depreciation deduction  
33 (30% of the adjusted basis of the qualified property)  
34 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal  
2 Revenue Code and for each applicable taxable year  
3 thereafter, an amount equal to "x", where:

4 (1) "y" equals the amount of the depreciation  
5 deduction taken for the taxable year on the  
6 taxpayer's federal income tax return on property  
7 for which the bonus depreciation deduction (30% of  
8 the adjusted basis of the qualified property) was  
9 taken in any year under subsection (k) of Section  
10 168 of the Internal Revenue Code, but not including  
11 the bonus depreciation deduction; and

12 (2) "x" equals "y" multiplied by 30 and then  
13 divided by 70 (or "y" multiplied by 0.429).

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 (30% of the adjusted basis of  
18 the qualified property) taken on that property on the  
19 taxpayer's federal income tax return under subsection  
20 (k) of Section 168 of the Internal Revenue Code; ~~and~~

21 (P) If the taxpayer reports a capital gain or loss  
22 on the taxpayer's federal income tax return for the  
23 taxable year based on a sale or transfer of property  
24 for which the taxpayer was required in any taxable year  
25 to make an addition modification under subparagraph  
26 (D-5), then an amount equal to that addition  
27 modification.

28 The taxpayer is allowed to take the deduction under  
29 this subparagraph only once with respect to any one  
30 piece of property; ~~and~~

31 (Q) The amount of (i) any interest income (net of  
32 the deductions allocable thereto) taken into account  
33 for the taxable year with respect to a transaction with  
34 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;

13 (R) An amount equal to the interest income taken  
14 into account for the taxable year (net of the  
15 deductions allocable thereto) with respect to  
16 transactions with a foreign person who would be a  
17 member of the taxpayer's unitary business group but for  
18 the fact that the foreign person's business activity  
19 outside the United States is 80% or more of that  
20 person's total business activity, but not to exceed the  
21 addition modification required to be made for the same  
22 taxable year under Section 203(d)(2)(D-7) for interest  
23 paid, accrued, or incurred, directly or indirectly, to  
24 the same foreign person; and

25 (S) An amount equal to the income from intangible  
26 property taken into account for the taxable year (net  
27 of the deductions allocable thereto) with respect to  
28 transactions with a foreign person who would be a  
29 member of the taxpayer's unitary business group but for  
30 the fact that the foreign person's business activity  
31 outside the United States is 80% or more of that  
32 person's total business activity, but not to exceed the  
33 addition modification required to be made for the same  
34 taxable year under Section 203(d)(2)(D-8) for

1           intangible expenses and costs paid, accrued, or  
2           incurred, directly or indirectly, to the same foreign  
3           person.

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

5           (1) In general. Subject to the provisions of paragraph  
6           (2) and subsection (b) (3), for purposes of this Section  
7           and Section 803(e), a taxpayer's gross income, adjusted  
8           gross income, or taxable income for the taxable year shall  
9           mean the amount of gross income, adjusted gross income or  
10          taxable income properly reportable for federal income tax  
11          purposes for the taxable year under the provisions of the  
12          Internal Revenue Code. Taxable income may be less than  
13          zero. However, for taxable years ending on or after  
14          December 31, 1986, net operating loss carryforwards from  
15          taxable years ending prior to December 31, 1986, may not  
16          exceed the sum of federal taxable income for the taxable  
17          year before net operating loss deduction, plus the excess  
18          of addition modifications over subtraction modifications  
19          for the taxable year. For taxable years ending prior to  
20          December 31, 1986, taxable income may never be an amount in  
21          excess of the net operating loss for the taxable year as  
22          defined in subsections (c) and (d) of Section 172 of the  
23          Internal Revenue Code, provided that when taxable income of  
24          a corporation (other than a Subchapter S corporation),  
25          trust, or estate is less than zero and addition  
26          modifications, other than those provided by subparagraph  
27          (E) of paragraph (2) of subsection (b) for corporations or  
28          subparagraph (E) of paragraph (2) of subsection (c) for  
29          trusts and estates, exceed subtraction modifications, an  
30          addition modification must be made under those  
31          subparagraphs for any other taxable year to which the  
32          taxable income less than zero (net operating loss) is  
33          applied under Section 172 of the Internal Revenue Code or

1 under subparagraph (E) of paragraph (2) of this subsection  
2 (e) applied in conjunction with Section 172 of the Internal  
3 Revenue Code.

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

7 (A) Certain life insurance companies. In the case  
8 of a life insurance company subject to the tax imposed  
9 by Section 801 of the Internal Revenue Code, life  
10 insurance company taxable income, plus the amount of  
11 distribution from pre-1984 policyholder surplus  
12 accounts as calculated under Section 815a of the  
13 Internal Revenue Code;

14 (B) Certain other insurance companies. In the case  
15 of mutual insurance companies subject to the tax  
16 imposed by Section 831 of the Internal Revenue Code,  
17 insurance company taxable income;

18 (C) Regulated investment companies. In the case of  
19 a regulated investment company subject to the tax  
20 imposed by Section 852 of the Internal Revenue Code,  
21 investment company taxable income;

22 (D) Real estate investment trusts. In the case of a  
23 real estate investment trust subject to the tax imposed  
24 by Section 857 of the Internal Revenue Code, real  
25 estate investment trust taxable income;

26 (E) Consolidated corporations. In the case of a  
27 corporation which is a member of an affiliated group of  
28 corporations filing a consolidated income tax return  
29 for the taxable year for federal income tax purposes,  
30 taxable income determined as if such corporation had  
31 filed a separate return for federal income tax purposes  
32 for the taxable year and each preceding taxable year  
33 for which it was a member of an affiliated group. For  
34 purposes of this subparagraph, the taxpayer's separate



1 taxable income shall be determined as if the election  
2 provided by Section 243(b) (2) of the Internal Revenue  
3 Code had been in effect for all such years;

4 (F) Cooperatives. In the case of a cooperative  
5 corporation or association, the taxable income of such  
6 organization determined in accordance with the  
7 provisions of Section 1381 through 1388 of the Internal  
8 Revenue Code;

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

25 (H) Partnerships. In the case of a partnership,  
26 taxable income determined in accordance with Section  
27 703 of the Internal Revenue Code, except that taxable  
28 income shall take into account those items which are  
29 required by Section 703(a)(1) to be separately stated  
30 but which would be taken into account by an individual  
31 in calculating his taxable income.

32 (3) Recapture of business expenses on disposition of  
33 asset or business. Notwithstanding any other law to the  
34 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  
26 capital gain) for all property in respect of which such  
27 gain was reported for federal income tax purposes for  
28 the taxable year, or (ii) the net capital gain for the  
29 taxable year, reduced in either case by any amount of  
30 such gain included in the amount determined under  
31 subsection (a) (2) (F) or (c) (2) (H).

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

33 (A) If the fair market value of property referred  
34 to in paragraph (1) was readily ascertainable on August

1           1, 1969, the pre-August 1, 1969 appreciation amount for  
2           such property is the lesser of (i) the excess of such  
3           fair market value over the taxpayer's basis (for  
4           determining gain) for such property on that date  
5           (determined under the Internal Revenue Code as in  
6           effect on that date), or (ii) the total gain realized  
7           and reportable for federal income tax purposes in  
8           respect of the sale, exchange or other disposition of  
9           such property.

10           (B) If the fair market value of property referred  
11           to in paragraph (1) was not readily ascertainable on  
12           August 1, 1969, the pre-August 1, 1969 appreciation  
13           amount for such property is that amount which bears the  
14           same ratio to the total gain reported in respect of the  
15           property for federal income tax purposes for the  
16           taxable year, as the number of full calendar months in  
17           that part of the taxpayer's holding period for the  
18           property ending July 31, 1969 bears to the number of  
19           full calendar months in the taxpayer's entire holding  
20           period for the property.

21           (C) The Department shall prescribe such  
22           regulations as may be necessary to carry out the  
23           purposes of this paragraph.

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

27           (h) Legislative intention. Except as expressly provided by  
28           this Section there shall be no modifications or limitations on  
29           the amounts of income, gain, loss or deduction taken into  
30           account in determining gross income, adjusted gross income or  
31           taxable income for federal income tax purposes for the taxable  
32           year, or in the amount of such items entering into the

1 computation of base income and net income under this Act for  
2 such taxable year, whether in respect of property values as of  
3 August 1, 1969 or otherwise.

4 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;  
5 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.  
6 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,  
7 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;  
8 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff.  
9 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

10 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

11 Sec. 205. Exempt organizations.

12 (a) Charitable, etc. organizations. The base income of an  
13 organization which is exempt from the federal income tax by  
14 reason of Section 501(a) of the Internal Revenue Code shall not  
15 be determined under section 203 of this Act, but shall be its  
16 unrelated business taxable income as determined under section  
17 512 of the Internal Revenue Code, without any deduction for the  
18 tax imposed by this Act. The standard exemption provided by  
19 section 204 of this Act shall not be allowed in determining the  
20 net income of an organization to which this subsection applies.

21 (b) Partnerships. A partnership as such shall not be  
22 subject to the tax imposed by subsection 201 (a) and (b) of  
23 this Act, but shall be subject to the replacement tax imposed  
24 by subsection 201 (c) and (d) of this Act and shall compute its  
25 base income as described in subsection (d) of Section 203 of  
26 this Act. For taxable years ending on or after December 31,  
27 2004, an investment partnership, as defined in Section  
28 1501(a)(11.5) of this Act, shall not be subject to the tax  
29 imposed by subsections (c) and (d) of Section 201 of this Act.

30 A partnership shall file such returns and other information at  
31 such time and in such manner as may be required under Article 5  
32 of this Act. The partners in a partnership shall be liable for  
33 the replacement tax imposed by subsection 201 (c) and (d) of

1 this Act on such partnership, to the extent such tax is not  
2 paid by the partnership, as provided under the laws of Illinois  
3 governing the liability of partners for the obligations of a  
4 partnership. Persons carrying on business as partners shall be  
5 liable for the tax imposed by subsection 201 (a) and (b) of  
6 this Act only in their separate or individual capacities.

7 (c) Subchapter S corporations. A Subchapter S corporation  
8 shall not be subject to the tax imposed by subsection 201 (a)  
9 and (b) of this Act but shall be subject to the replacement tax  
10 imposed by subsection 201 (c) and (d) of this Act and shall  
11 file such returns and other information at such time and in  
12 such manner as may be required under Article 5 of this Act.

13 (d) Combat zone death. An individual relieved from the  
14 federal income tax for any taxable year by reason of section  
15 692 of the Internal Revenue Code shall not be subject to the  
16 tax imposed by this Act for such taxable year.

17 (e) Certain trusts. A common trust fund described in  
18 Section 584 of the Internal Revenue Code, and any other trust  
19 to the extent that the grantor is treated as the owner thereof  
20 under sections 671 through 678 of the Internal Revenue Code  
21 shall not be subject to the tax imposed by this Act.

22 (f) Certain business activities. A person not otherwise  
23 subject to the tax imposed by this Act shall not become subject  
24 to the tax imposed by this Act by reason of:

25 (1) that person's ownership of tangible personal  
26 property located at the premises of a printer in this State  
27 with which the person has contracted for printing, or

28 (2) activities of the person's employees or agents  
29 located solely at the premises of a printer and related to  
30 quality control, distribution, or printing services  
31 performed by a printer in the State with which the person  
32 has contracted for printing.

33 (Source: P.A. 88-361.)

1 (35 ILCS 5/305) (from Ch. 120, par. 3-305)

2 Sec. 305. Allocation of Partnership Income by partnerships  
3 and partners other than residents. (a) Allocation of  
4 partnership business income by partners other than residents.  
5 The respective shares of partners other than residents in so  
6 much of the business income of the partnership as is allocated  
7 or apportioned to this State in the possession of the  
8 partnership shall be taken into account by such partners pro  
9 rata in accordance with their respective distributive shares of  
10 such partnership income for the partnership's taxable year and  
11 allocated to this State.

12 (b) Allocation of partnership nonbusiness income by  
13 partners other than residents. The respective shares of  
14 partners other than residents in the items of partnership  
15 income and deduction not taken into account in computing the  
16 business income of a partnership shall be taken into account by  
17 such partners pro rata in accordance with their respective  
18 distributive shares of such partnership income for the  
19 partnership's taxable year, and allocated as if such items had  
20 been paid, incurred or accrued directly to such partners in  
21 their separate capacities.

22 (c) Allocation or apportionment of base income by  
23 partnership. Base income of a partnership shall be allocated or  
24 apportioned to this State pursuant to Article 3, in the same  
25 manner as it is allocated or apportioned for any other  
26 nonresident.

27 (c-5) Taxable income of an investment partnership, as  
28 defined in Section 1501(a)(11.5) of this Act, that is  
29 distributable to a nonresident partner shall be treated as  
30 nonbusiness income and shall be allocated to the partner's  
31 state of residence (in the case of an individual) or commercial  
32 domicile (in the case of any other person). However, any income  
33 distributable to a nonresident partner shall be treated as  
34 business income and apportioned as if such income had been

1 received directly by the partner if the partner has made an  
2 election under Section 1501(a)(1) of this Act to treat all  
3 income as business income or if such income is from investment  
4 activity:

5 (1) that is directly or integrally related to any other  
6 business activity conducted in this State by the  
7 nonresident partner (or any member of that partner's  
8 unitary business group);

9 (2) that serves an operational function to any other  
10 business activity of the nonresident partner (or any member  
11 of that partner's unitary business group) in this State; or

12 (3) where assets of the investment partnership were  
13 acquired with working capital from a trade or business  
14 activity conducted in this State in which the nonresident  
15 partner (or any member of that partner's unitary business  
16 group) owns an interest.

17 (d) Cross reference. For allocation of partnership income  
18 or deductions by residents, see Section 301(a).

19 (Source: P.A. 84-550.)

20 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

21 Sec. 1501. Definitions.

22 (a) In general. When used in this Act, where not otherwise  
23 distinctly expressed or manifestly incompatible with the  
24 intent thereof:

25 (1) Business income. The term "business income" means  
26 all income that may be treated as apportionable business  
27 income under the Constitution of the United States.  
28 Business income is net of the deductions allocable thereto  
29 ~~income arising from transactions and activity in the~~  
30 ~~regular course of the taxpayer's trade or business, net of~~  
31 ~~the deductions allocable thereto, and includes income from~~  
32 ~~tangible and intangible property if the acquisition,~~  
33 ~~management, and disposition of the property constitute~~

1 ~~integral parts of the taxpayer's regular trade or business~~  
2 ~~operations~~. Such term does not include compensation or the  
3 deductions allocable thereto. For each taxable year  
4 beginning on or after January 1, 2003, a taxpayer may elect  
5 to treat all income other than compensation as business  
6 income. This election shall be made in accordance with  
7 rules adopted by the Department and, once made, shall be  
8 irrevocable.

9 (2) Commercial domicile. The term "commercial  
10 domicile" means the principal place from which the trade or  
11 business of the taxpayer is directed or managed.

12 (3) Compensation. The term "compensation" means wages,  
13 salaries, commissions and any other form of remuneration  
14 paid to employees for personal services.

15 (4) Corporation. The term "corporation" includes  
16 associations, joint-stock companies, insurance companies  
17 and cooperatives. Any entity, including a limited  
18 liability company formed under the Illinois Limited  
19 Liability Company Act, shall be treated as a corporation if  
20 it is so classified for federal income tax purposes.

21 (5) Department. The term "Department" means the  
22 Department of Revenue of this State.

23 (6) Director. The term "Director" means the Director of  
24 Revenue of this State.

25 (7) Fiduciary. The term "fiduciary" means a guardian,  
26 trustee, executor, administrator, receiver, or any person  
27 acting in any fiduciary capacity for any person.

28 (8) Financial organization.

29 (A) The term "financial organization" means any  
30 bank, bank holding company, trust company, savings  
31 bank, industrial bank, land bank, safe deposit  
32 company, private banker, savings and loan association,  
33 building and loan association, credit union, currency  
34 exchange, cooperative bank, small loan company, sales



1 finance company, investment company, or any person  
2 which is owned by a bank or bank holding company. For  
3 the purpose of this Section a "person" will include  
4 only those persons which a bank holding company may  
5 acquire and hold an interest in, directly or  
6 indirectly, under the provisions of the Bank Holding  
7 Company Act of 1956 (12 U.S.C. 1841, et seq.), except  
8 where interests in any person must be disposed of  
9 within certain required time limits under the Bank  
10 Holding Company Act of 1956.

11 (B) For purposes of subparagraph (A) of this  
12 paragraph, the term "bank" includes (i) any entity that  
13 is regulated by the Comptroller of the Currency under  
14 the National Bank Act, or by the Federal Reserve Board,  
15 or by the Federal Deposit Insurance Corporation and  
16 (ii) any federally or State chartered bank operating as  
17 a credit card bank.

18 (C) For purposes of subparagraph (A) of this  
19 paragraph, the term "sales finance company" has the  
20 meaning provided in the following item (i) or (ii):

21 (i) A person primarily engaged in one or more  
22 of the following businesses: the business of  
23 purchasing customer receivables, the business of  
24 making loans upon the security of customer  
25 receivables, the business of making loans for the  
26 express purpose of funding purchases of tangible  
27 personal property or services by the borrower, or  
28 the business of finance leasing. For purposes of  
29 this item (i), "customer receivable" means:

30 (a) a retail installment contract or  
31 retail charge agreement within the meaning of  
32 the Sales Finance Agency Act, the Retail  
33 Installment Sales Act, or the Motor Vehicle  
34 Retail Installment Sales Act;

1 (b) an installment, charge, credit, or  
2 similar contract or agreement arising from the  
3 sale of tangible personal property or services  
4 in a transaction involving a deferred payment  
5 price payable in one or more installments  
6 subsequent to the sale; or

7 (c) the outstanding balance of a contract  
8 or agreement described in provisions (a) or (b)  
9 of this item (i).

10 A customer receivable need not provide for  
11 payment of interest on deferred payments. A sales  
12 finance company may purchase a customer receivable  
13 from, or make a loan secured by a customer  
14 receivable to, the seller in the original  
15 transaction or to a person who purchased the  
16 customer receivable directly or indirectly from  
17 that seller.

18 (ii) A corporation meeting each of the  
19 following criteria:

20 (a) the corporation must be a member of an  
21 "affiliated group" within the meaning of  
22 Section 1504(a) of the Internal Revenue Code,  
23 determined without regard to Section 1504(b)  
24 of the Internal Revenue Code;

25 (b) more than 50% of the gross income of  
26 the corporation for the taxable year must be  
27 interest income derived from qualifying loans.  
28 A "qualifying loan" is a loan made to a member  
29 of the corporation's affiliated group that  
30 originates customer receivables (within the  
31 meaning of item (i)) or to whom customer  
32 receivables originated by a member of the  
33 affiliated group have been transferred, to the  
34 extent the average outstanding balance of

1 loans from that corporation to members of its  
2 affiliated group during the taxable year do not  
3 exceed the limitation amount for that  
4 corporation. The "limitation amount" for a  
5 corporation is the average outstanding  
6 balances during the taxable year of customer  
7 receivables (within the meaning of item (i))  
8 originated by all members of the affiliated  
9 group. If the average outstanding balances of  
10 the loans made by a corporation to members of  
11 its affiliated group exceed the limitation  
12 amount, the interest income of that  
13 corporation from qualifying loans shall be  
14 equal to its interest income from loans to  
15 members of its affiliated groups times a  
16 fraction equal to the limitation amount  
17 divided by the average outstanding balances of  
18 the loans made by that corporation to members  
19 of its affiliated group;

20 (c) the total of all shareholder's equity  
21 (including, without limitation, paid-in  
22 capital on common and preferred stock and  
23 retained earnings) of the corporation plus the  
24 total of all of its loans, advances, and other  
25 obligations payable or owed to members of its  
26 affiliated group may not exceed 20% of the  
27 total assets of the corporation at any time  
28 during the tax year; and

29 (d) more than 50% of all interest-bearing  
30 obligations of the affiliated group payable to  
31 persons outside the group determined in  
32 accordance with generally accepted accounting  
33 principles must be obligations of the  
34 corporation.

1           This amendatory Act of the 91st General Assembly is  
2           declaratory of existing law.

3           (D) Subparagraphs (B) and (C) of this paragraph are  
4           declaratory of existing law and apply retroactively,  
5           for all tax years beginning on or before December 31,  
6           1996, to all original returns, to all amended returns  
7           filed no later than 30 days after the effective date of  
8           this amendatory Act of 1996, and to all notices issued  
9           on or before the effective date of this amendatory Act  
10          of 1996 under subsection (a) of Section 903, subsection  
11          (a) of Section 904, subsection (e) of Section 909, or  
12          Section 912. A taxpayer that is a "financial  
13          organization" that engages in any transaction with an  
14          affiliate shall be a "financial organization" for all  
15          purposes of this Act.

16          (E) For all tax years beginning on or before  
17          December 31, 1996, a taxpayer that falls within the  
18          definition of a "financial organization" under  
19          subparagraphs (B) or (C) of this paragraph, but who  
20          does not fall within the definition of a "financial  
21          organization" under the Proposed Regulations issued by  
22          the Department of Revenue on July 19, 1996, may  
23          irrevocably elect to apply the Proposed Regulations  
24          for all of those years as though the Proposed  
25          Regulations had been lawfully promulgated, adopted,  
26          and in effect for all of those years. For purposes of  
27          applying subparagraphs (B) or (C) of this paragraph to  
28          all of those years, the election allowed by this  
29          subparagraph applies only to the taxpayer making the  
30          election and to those members of the taxpayer's unitary  
31          business group who are ordinarily required to  
32          apportion business income under the same subsection of  
33          Section 304 of this Act as the taxpayer making the  
34          election. No election allowed by this subparagraph

1 shall be made under a claim filed under subsection (d)  
2 of Section 909 more than 30 days after the effective  
3 date of this amendatory Act of 1996.

4 (F) Finance Leases. For purposes of this  
5 subsection, a finance lease shall be treated as a loan  
6 or other extension of credit, rather than as a lease,  
7 regardless of how the transaction is characterized for  
8 any other purpose, including the purposes of any  
9 regulatory agency to which the lessor is subject. A  
10 finance lease is any transaction in the form of a lease  
11 in which the lessee is treated as the owner of the  
12 leased asset entitled to any deduction for  
13 depreciation allowed under Section 167 of the Internal  
14 Revenue Code.

15 (9) Fiscal year. The term "fiscal year" means an  
16 accounting period of 12 months ending on the last day of  
17 any month other than December.

18 (10) Includes and including. The terms "includes" and  
19 "including" when used in a definition contained in this Act  
20 shall not be deemed to exclude other things otherwise  
21 within the meaning of the term defined.

22 (11) Internal Revenue Code. The term "Internal Revenue  
23 Code" means the United States Internal Revenue Code of 1954  
24 or any successor law or laws relating to federal income  
25 taxes in effect for the taxable year.

26 (11.5) Investment partnership.

27 (A) The term "investment partnership" means any  
28 entity that is treated as a partnership for federal  
29 income tax purposes that meets the following  
30 requirements:

31 (i) no less than 90% of the partnership's cost  
32 of its total assets consists of qualifying  
33 investment securities, deposits at banks or other  
34 financial institutions, and office space and

1 equipment reasonably necessary to carry on its  
2 activities as an investment partnership;

3 (ii) no less than 90% of its gross income  
4 consists of interest, dividends, and gains from  
5 the sale or exchange of qualifying investment  
6 securities; and

7 (iii) the partnership is not a dealer in  
8 qualifying investment securities.

9 (B) For purposes of this paragraph (11.5), the term  
10 "qualifying investment securities" includes all of the  
11 following:

12 (i) common stock, including preferred or debt  
13 securities convertible into common stock, and  
14 preferred stock;

15 (ii) bonds, debentures, and other debt  
16 securities;

17 (iii) foreign and domestic currency deposits  
18 secured by federal, state, or local governmental  
19 agencies;

20 (iv) mortgage or asset-backed securities  
21 secured by federal, state, or local governmental  
22 agencies;

23 (v) repurchase agreements and loan  
24 participations;

25 (vi) foreign currency exchange contracts and  
26 forward and futures contracts on foreign  
27 currencies;

28 (vii) stock and bond index securities and  
29 futures contracts and other similar financial  
30 securities and futures contracts on those  
31 securities;

32 (viii) options for the purchase or sale of any  
33 of the securities, currencies, contracts, or  
34 financial instruments described in items (i) to

1                   (vii), inclusive;

2                   (ix) regulated futures contracts;

3                   (x) commodities (not described in Section  
4                   1221(a)(1) of the Internal Revenue Code) or  
5                   futures, forwards, and options with respect to  
6                   such commodities, provided, however, that any item  
7                   of a physical commodity to which title is actually  
8                   acquired in the partnership's capacity as a dealer  
9                   in such commodity shall not be a qualifying  
10                   investment security;

11                   (xi) derivatives; and

12                   (xii) a partnership interest in another  
13                   partnership that is an investment partnership.

14           (12) Mathematical error. The term "mathematical error"  
15 includes the following types of errors, omissions, or  
16 defects in a return filed by a taxpayer which prevents  
17 acceptance of the return as filed for processing:

18                   (A) arithmetic errors or incorrect computations on  
19 the return or supporting schedules;

20                   (B) entries on the wrong lines;

21                   (C) omission of required supporting forms or  
22 schedules or the omission of the information in whole  
23 or in part called for thereon; and

24                   (D) an attempt to claim, exclude, deduct, or  
25 improperly report, in a manner directly contrary to the  
26 provisions of the Act and regulations thereunder any  
27 item of income, exemption, deduction, or credit.

28           (13) Nonbusiness income. The term "nonbusiness income"  
29 means all income other than business income or  
30 compensation.

31           (14) Nonresident. The term "nonresident" means a  
32 person who is not a resident.

33           (15) Paid, incurred and accrued. The terms "paid",  
34 "incurred" and "accrued" shall be construed according to

1 the method of accounting upon the basis of which the  
2 person's base income is computed under this Act.

3 (16) Partnership and partner. The term "partnership"  
4 includes a syndicate, group, pool, joint venture or other  
5 unincorporated organization, through or by means of which  
6 any business, financial operation, or venture is carried  
7 on, and which is not, within the meaning of this Act, a  
8 trust or estate or a corporation; and the term "partner"  
9 includes a member in such syndicate, group, pool, joint  
10 venture or organization.

11 The term "partnership" includes any entity, including  
12 a limited liability company formed under the Illinois  
13 Limited Liability Company Act, classified as a partnership  
14 for federal income tax purposes.

15 The term "partnership" does not include a syndicate,  
16 group, pool, joint venture, or other unincorporated  
17 organization established for the sole purpose of playing  
18 the Illinois State Lottery.

19 (17) Part-year resident. The term "part-year resident"  
20 means an individual who became a resident during the  
21 taxable year or ceased to be a resident during the taxable  
22 year. Under Section 1501(a)(20)(A)(i) residence commences  
23 with presence in this State for other than a temporary or  
24 transitory purpose and ceases with absence from this State  
25 for other than a temporary or transitory purpose. Under  
26 Section 1501(a)(20)(A)(ii) residence commences with the  
27 establishment of domicile in this State and ceases with the  
28 establishment of domicile in another State.

29 (18) Person. The term "person" shall be construed to  
30 mean and include an individual, a trust, estate,  
31 partnership, association, firm, company, corporation,  
32 limited liability company, or fiduciary. For purposes of  
33 Section 1301 and 1302 of this Act, a "person" means (i) an  
34 individual, (ii) a corporation, (iii) an officer, agent, or



1 employee of a corporation, (iv) a member, agent or employee  
2 of a partnership, or (v) a member, manager, employee,  
3 officer, director, or agent of a limited liability company  
4 who in such capacity commits an offense specified in  
5 Section 1301 and 1302.

6 (18A) Records. The term "records" includes all data  
7 maintained by the taxpayer, whether on paper, microfilm,  
8 microfiche, or any type of machine-sensible data  
9 compilation.

10 (19) Regulations. The term "regulations" includes  
11 rules promulgated and forms prescribed by the Department.

12 (20) Resident. The term "resident" means:

13 (A) an individual (i) who is in this State for  
14 other than a temporary or transitory purpose during the  
15 taxable year; or (ii) who is domiciled in this State  
16 but is absent from the State for a temporary or  
17 transitory purpose during the taxable year;

18 (B) The estate of a decedent who at his or her  
19 death was domiciled in this State;

20 (C) A trust created by a will of a decedent who at  
21 his death was domiciled in this State; and

22 (D) An irrevocable trust, the grantor of which was  
23 domiciled in this State at the time such trust became  
24 irrevocable. For purpose of this subparagraph, a trust  
25 shall be considered irrevocable to the extent that the  
26 grantor is not treated as the owner thereof under  
27 Sections 671 through 678 of the Internal Revenue Code.

28 (21) Sales. The term "sales" means all gross receipts  
29 of the taxpayer not allocated under Sections 301, 302 and  
30 303.

31 (22) State. The term "state" when applied to a  
32 jurisdiction other than this State means any state of the  
33 United States, the District of Columbia, the Commonwealth  
34 of Puerto Rico, any Territory or Possession of the United

1 States, and any foreign country, or any political  
2 subdivision of any of the foregoing. For purposes of the  
3 foreign tax credit under Section 601, the term "state"  
4 means any state of the United States, the District of  
5 Columbia, the Commonwealth of Puerto Rico, and any  
6 territory or possession of the United States, or any  
7 political subdivision of any of the foregoing, effective  
8 for tax years ending on or after December 31, 1989.

9 (23) Taxable year. The term "taxable year" means the  
10 calendar year, or the fiscal year ending during such  
11 calendar year, upon the basis of which the base income is  
12 computed under this Act. "Taxable year" means, in the case  
13 of a return made for a fractional part of a year under the  
14 provisions of this Act, the period for which such return is  
15 made.

16 (24) Taxpayer. The term "taxpayer" means any person  
17 subject to the tax imposed by this Act.

18 (25) International banking facility. The term  
19 international banking facility shall have the same meaning  
20 as is set forth in the Illinois Banking Act or as is set  
21 forth in the laws of the United States or regulations of  
22 the Board of Governors of the Federal Reserve System.

23 (26) Income Tax Return Preparer.

24 (A) The term "income tax return preparer" means any  
25 person who prepares for compensation, or who employs  
26 one or more persons to prepare for compensation, any  
27 return of tax imposed by this Act or any claim for  
28 refund of tax imposed by this Act. The preparation of a  
29 substantial portion of a return or claim for refund  
30 shall be treated as the preparation of that return or  
31 claim for refund.

32 (B) A person is not an income tax return preparer  
33 if all he or she does is

34 (i) furnish typing, reproducing, or other

1                   mechanical assistance;

2                   (ii) prepare returns or claims for refunds for  
3                   the employer by whom he or she is regularly and  
4                   continuously employed;

5                   (iii) prepare as a fiduciary returns or claims  
6                   for refunds for any person; or

7                   (iv) prepare claims for refunds for a taxpayer  
8                   in response to any notice of deficiency issued to  
9                   that taxpayer or in response to any waiver of  
10                  restriction after the commencement of an audit of  
11                  that taxpayer or of another taxpayer if a  
12                  determination in the audit of the other taxpayer  
13                  directly or indirectly affects the tax liability  
14                  of the taxpayer whose claims he or she is  
15                  preparing.

16                  (27) Unitary business group. The term "unitary  
17                  business group" means a group of persons related through  
18                  common ownership whose business activities are integrated  
19                  with, dependent upon and contribute to each other. The  
20                  group will not include those members whose business  
21                  activity outside the United States is 80% or more of any  
22                  such member's total business activity; for purposes of this  
23                  paragraph and clause (a)(3)(B)(ii) of Section 304,  
24                  business activity within the United States shall be  
25                  measured by means of the factors ordinarily applicable  
26                  under subsections (a), (b), (c), (d), or (h) of Section 304  
27                  except that, in the case of members ordinarily required to  
28                  apportion business income by means of the 3 factor formula  
29                  of property, payroll and sales specified in subsection (a)  
30                  of Section 304, including the formula as weighted in  
31                  subsection (h) of Section 304, such members shall not use  
32                  the sales factor in the computation and the results of the  
33                  property and payroll factor computations of subsection (a)  
34                  of Section 304 shall be divided by 2 (by one if either the

1 property or payroll factor has a denominator of zero). The  
2 computation required by the preceding sentence shall, in  
3 each case, involve the division of the member's property,  
4 payroll, or revenue miles in the United States, insurance  
5 premiums on property or risk in the United States, or  
6 financial organization business income from sources within  
7 the United States, as the case may be, by the respective  
8 worldwide figures for such items. Common ownership in the  
9 case of corporations is the direct or indirect control or  
10 ownership of more than 50% of the outstanding voting stock  
11 of the persons carrying on unitary business activity.  
12 Unitary business activity can ordinarily be illustrated  
13 where the activities of the members are: (1) in the same  
14 general line (such as manufacturing, wholesaling,  
15 retailing of tangible personal property, insurance,  
16 transportation or finance); or (2) are steps in a  
17 vertically structured enterprise or process (such as the  
18 steps involved in the production of natural resources,  
19 which might include exploration, mining, refining, and  
20 marketing); and, in either instance, the members are  
21 functionally integrated through the exercise of strong  
22 centralized management (where, for example, authority over  
23 such matters as purchasing, financing, tax compliance,  
24 product line, personnel, marketing and capital investment  
25 is not left to each member). In no event, however, will any  
26 unitary business group include members which are  
27 ordinarily required to apportion business income under  
28 different subsections of Section 304 except that for tax  
29 years ending on or after December 31, 1987 this prohibition  
30 shall not apply to a unitary business group composed of one  
31 or more taxpayers all of which apportion business income  
32 pursuant to subsection (b) of Section 304, or all of which  
33 apportion business income pursuant to subsection (d) of  
34 Section 304, and a holding company of such single-factor

1 taxpayers (see definition of "financial organization" for  
2 rule regarding holding companies of financial  
3 organizations). If a unitary business group would, but for  
4 the preceding sentence, include members that are  
5 ordinarily required to apportion business income under  
6 different subsections of Section 304, then for each  
7 subsection of Section 304 for which there are two or more  
8 members, there shall be a separate unitary business group  
9 composed of such members. For purposes of the preceding two  
10 sentences, a member is "ordinarily required to apportion  
11 business income" under a particular subsection of Section  
12 304 if it would be required to use the apportionment method  
13 prescribed by such subsection except for the fact that it  
14 derives business income solely from Illinois. As used in  
15 this paragraph, the phrase "United States" means only the  
16 50 states and the District of Columbia, but does not  
17 include any territory or possession of the United States or  
18 any area over which the United States has asserted  
19 jurisdiction or claimed exclusive rights with respect to  
20 the exploration for or exploitation of natural resources.

21 If the unitary business group members' accounting  
22 periods differ, the common parent's accounting period or,  
23 if there is no common parent, the accounting period of the  
24 member that is expected to have, on a recurring basis, the  
25 greatest Illinois income tax liability must be used to  
26 determine whether to use the apportionment method provided  
27 in subsection (a) or subsection (h) of Section 304. The  
28 prohibition against membership in a unitary business group  
29 for taxpayers ordinarily required to apportion income  
30 under different subsections of Section 304 does not apply  
31 to taxpayers required to apportion income under subsection  
32 (a) and subsection (h) of Section 304. The provisions of  
33 this amendatory Act of 1998 apply to tax years ending on or  
34 after December 31, 1998.

1           (28) Subchapter S corporation. The term "Subchapter S  
2 corporation" means a corporation for which there is in  
3 effect an election under Section 1362 of the Internal  
4 Revenue Code, or for which there is a federal election to  
5 opt out of the provisions of the Subchapter S Revision Act  
6 of 1982 and have applied instead the prior federal  
7 Subchapter S rules as in effect on July 1, 1982.

8           (30) Foreign person. The term "foreign person" means  
9 any person who is a nonresident alien individual and any  
10 nonindividual entity, regardless of where created or  
11 organized, whose business activity outside the United  
12 States is 80% or more of the entity's total business  
13 activity.

14           (b) Other definitions.

15           (1) Words denoting number, gender, and so forth, when  
16 used in this Act, where not otherwise distinctly expressed  
17 or manifestly incompatible with the intent thereof:

18           (A) Words importing the singular include and apply  
19 to several persons, parties or things;

20           (B) Words importing the plural include the  
21 singular; and

22           (C) Words importing the masculine gender include  
23 the feminine as well.

24           (2) "Company" or "association" as including successors  
25 and assigns. The word "company" or "association", when used  
26 in reference to a corporation, shall be deemed to embrace  
27 the words "successors and assigns of such company or  
28 association", and in like manner as if these last-named  
29 words, or words of similar import, were expressed.

30           (3) Other terms. Any term used in any Section of this  
31 Act with respect to the application of, or in connection  
32 with, the provisions of any other Section of this Act shall  
33 have the same meaning as in such other Section.

1 (Source: P.A. 91-535, eff. 1-1-00; 91-913, eff. 1-1-01; 92-846,  
2 eff. 8-23-02.)

3 ARTICLE 30

4 Section 30-5. The Illinois Vehicle Code is amended by  
5 changing Sections 2-119, 3-820, 3-821, and 11-501 and by adding  
6 Section 3-821.2 as follows:

7 (625 ILCS 5/2-119) (from Ch. 95 1/2, par. 2-119)

8 Sec. 2-119. Disposition of fees and taxes.

9 (a) All moneys received from Salvage Certificates shall be  
10 deposited in the Common School Fund in the State Treasury.

11 (b) Beginning January 1, 1990 and concluding December 31,  
12 1994, of the money collected for each certificate of title,  
13 duplicate certificate of title and corrected certificate of  
14 title, \$0.50 shall be deposited into the Used Tire Management  
15 Fund. Beginning January 1, 1990 and concluding December 31,  
16 1994, of the money collected for each certificate of title,  
17 duplicate certificate of title and corrected certificate of  
18 title, \$1.50 shall be deposited in the Park and Conservation  
19 Fund.

20 Beginning January 1, 1995, of the money collected for each  
21 certificate of title, duplicate certificate of title and  
22 corrected certificate of title, \$2 shall be deposited in the  
23 Park and Conservation Fund. The moneys deposited in the Park  
24 and Conservation Fund pursuant to this Section shall be used  
25 for the acquisition and development of bike paths as provided  
26 for in Section 805-420 of the Department of Natural Resources  
27 (Conservation) Law (20 ILCS 805/805-420).

28 Beginning January 1, 2000, of the moneys collected for each  
29 certificate of title, duplicate certificate of title, and  
30 corrected certificate of title, \$48 shall be deposited into the  
31 Road Fund and \$4 shall be deposited into the Motor Vehicle

1 License Plate Fund, except that if the balance in the Motor  
2 Vehicle License Plate Fund exceeds \$40,000,000 on the last day  
3 of a calendar month, then during the next calendar month the \$4  
4 shall instead be deposited into the Road Fund.

5 Beginning January 1, 2005, of the moneys collected for each  
6 delinquent vehicle registration renewal fee, \$20 shall be  
7 deposited into the General Revenue Fund.

8 Except as otherwise provided in this Code, all remaining  
9 moneys collected for certificates of title, and all moneys  
10 collected for filing of security interests, shall be placed in  
11 the General Revenue Fund in the State Treasury.

12 (c) All moneys collected for that portion of a driver's  
13 license fee designated for driver education under Section 6-118  
14 shall be placed in the Driver Education Fund in the State  
15 Treasury.

16 (d) Beginning January 1, 1999, of the monies collected as a  
17 registration fee for each motorcycle, motor driven cycle and  
18 motorized pedalcycle, 27% of each annual registration fee for  
19 such vehicle and 27% of each semiannual registration fee for  
20 such vehicle is deposited in the Cycle Rider Safety Training  
21 Fund.

22 (e) Of the monies received by the Secretary of State as  
23 registration fees or taxes or as payment of any other fee, as  
24 provided in this Act, except fees received by the Secretary  
25 under paragraph (7) of subsection (b) of Section 5-101 and  
26 Section 5-109 of this Code, 37% shall be deposited into the  
27 State Construction Fund.

28 (f) Of the total money collected for a CDL instruction  
29 permit or original or renewal issuance of a commercial driver's  
30 license (CDL) pursuant to the Uniform Commercial Driver's  
31 License Act (UCDLA): (i) \$6 of the total fee for an original or  
32 renewal CDL, and \$6 of the total CDL instruction permit fee  
33 when such permit is issued to any person holding a valid  
34 Illinois driver's license, shall be paid into the



1 CDLIS/AAMVAnet Trust Fund (Commercial Driver's License  
2 Information System/American Association of Motor Vehicle  
3 Administrators network Trust Fund) and shall be used for the  
4 purposes provided in Section 6z-23 of the State Finance Act and  
5 (ii) \$20 of the total fee for an original or renewal CDL or  
6 commercial driver instruction permit shall be paid into the  
7 Motor Carrier Safety Inspection Fund, which is hereby created  
8 as a special fund in the State Treasury, to be used by the  
9 Department of State Police, subject to appropriation, to hire  
10 additional officers to conduct motor carrier safety  
11 inspections pursuant to Chapter 18b of this Code.

12 (g) All remaining moneys received by the Secretary of State  
13 as registration fees or taxes or as payment of any other fee,  
14 as provided in this Act, except fees received by the Secretary  
15 under paragraph (7) (A) of subsection (b) of Section 5-101 and  
16 Section 5-109 of this Code, shall be deposited in the Road Fund  
17 in the State Treasury. Moneys in the Road Fund shall be used  
18 for the purposes provided in Section 8.3 of the State Finance  
19 Act.

20 (h) (Blank).

21 (i) (Blank).

22 (j) (Blank).

23 (k) There is created in the State Treasury a special fund  
24 to be known as the Secretary of State Special License Plate  
25 Fund. Money deposited into the Fund shall, subject to  
26 appropriation, be used by the Office of the Secretary of State  
27 (i) to help defray plate manufacturing and plate processing  
28 costs for the issuance and, when applicable, renewal of any new  
29 or existing registration plates authorized under this Code and  
30 (ii) for grants made by the Secretary of State to benefit  
31 Illinois Veterans Home libraries.

32 On or before October 1, 1995, the Secretary of State shall  
33 direct the State Comptroller and State Treasurer to transfer  
34 any unexpended balance in the Special Environmental License

1 Plate Fund, the Special Korean War Veteran License Plate Fund,  
2 and the Retired Congressional License Plate Fund to the  
3 Secretary of State Special License Plate Fund.

4 (l) The Motor Vehicle Review Board Fund is created as a  
5 special fund in the State Treasury. Moneys deposited into the  
6 Fund under paragraph (7) of subsection (b) of Section 5-101 and  
7 Section 5-109 shall, subject to appropriation, be used by the  
8 Office of the Secretary of State to administer the Motor  
9 Vehicle Review Board, including without limitation payment of  
10 compensation and all necessary expenses incurred in  
11 administering the Motor Vehicle Review Board under the Motor  
12 Vehicle Franchise Act.

13 (m) Effective July 1, 1996, there is created in the State  
14 Treasury a special fund to be known as the Family  
15 Responsibility Fund. Moneys deposited into the Fund shall,  
16 subject to appropriation, be used by the Office of the  
17 Secretary of State for the purpose of enforcing the Family  
18 Financial Responsibility Law.

19 (n) The Illinois Fire Fighters' Memorial Fund is created as  
20 a special fund in the State Treasury. Moneys deposited into the  
21 Fund shall, subject to appropriation, be used by the Office of  
22 the State Fire Marshal for construction of the Illinois Fire  
23 Fighters' Memorial to be located at the State Capitol grounds  
24 in Springfield, Illinois. Upon the completion of the Memorial,  
25 moneys in the Fund shall be used in accordance with Section  
26 3-634.

27 (o) Of the money collected for each certificate of title  
28 for all-terrain vehicles and off-highway motorcycles, \$17  
29 shall be deposited into the Off-Highway Vehicle Trails Fund.

30 (p) For audits conducted on or after July 1, 2003 pursuant  
31 to Section 2-124(d) of this Code, 50% of the money collected as  
32 audit fees shall be deposited into the General Revenue Fund.

33 (Source: P.A. 92-16, eff. 6-28-01; 93-32, eff. 7-1-03.)

1 (625 ILCS 5/3-820) (from Ch. 95 1/2, par. 3-820)

2 Sec. 3-820. Duplicate Number Plates. Upon filing in the  
3 Office of the Secretary of State an affidavit to the effect  
4 that an original number plate for a vehicle is lost, stolen or  
5 destroyed, a duplicate number plate shall be furnished upon  
6 payment of a fee of \$6 for each duplicate plate and a fee of \$9  
7 for a pair of duplicate plates.

8 Upon filing in the Office of the Secretary of State an  
9 affidavit to the effect that an original registration sticker  
10 for a vehicle is lost, stolen or destroyed, a new registration  
11 sticker shall be furnished upon payment of a fee of \$5.

12 The Secretary of State may, in his discretion, assign a new  
13 number plate or plates in lieu of a duplicate of the plate or  
14 plates so lost, stolen or destroyed, but such assignment of a  
15 new plate or plates shall not affect the right of the owner to  
16 secure a reassignment of his original registration number in  
17 the manner provided in this Act. The fee for one new number  
18 plate shall be \$6, and for a pair of new number plates, \$9.

19 For the administration of this Section, the Secretary shall  
20 consider the loss of a registration plate or plates with  
21 properly affixed registration stickers as requiring the  
22 payment of: ~~either~~

23 (i) \$11 for each duplicate; ~~or~~

24 (ii) \$14 for a pair of duplicate plates; or

25 (iii) \$39 for a pair of duplicate plates on or after  
26 January 1, 2005, which includes a fee of \$20 for the  
27 replacement sticker ~~or \$19 for a pair of duplicate plates~~  
28 ~~if stickers are required on both front and rear~~  
29 ~~registration plates.~~

30 (Source: P.A. 91-37, eff. 7-1-99.)

31 (625 ILCS 5/3-821) (from Ch. 95 1/2, par. 3-821)

32 Sec. 3-821. Miscellaneous Registration and Title Fees.

33 (a) The fee to be paid to the Secretary of State for the

1 following certificates, registrations or evidences of proper  
 2 registration, or for corrected or duplicate documents shall be  
 3 in accordance with the following schedule:

4 Certificate of Title, except for an all-terrain  
 5 vehicle or off-highway motorcycle \$65

6 Certificate of Title for an all-terrain vehicle  
 7 or off-highway motorcycle \$30

8 Certificate of Title for an all-terrain vehicle  
 9 or off-highway motorcycle used for production  
 10 agriculture, or accepted by a dealer in trade 13

11 Transfer of Registration or any evidence of  
 12 proper registration 15

13 Duplicate Registration Card for plates or other  
 14 evidence of proper registration 3

15 Duplicate Registration Sticker or Stickers, each  
 16 Duplicate Certificate of Title 65

17 Corrected Registration Card or Card for other  
 18 evidence of proper registration 3

19 Corrected Certificate of Title 65

20 Salvage Certificate 4

21 Fleet Reciprocity Permit 15

22 Prorate Decal 1

23 Prorate Backing Plate 3

24 There shall be no fee paid for a Junking Certificate.

25 (b) The Secretary may prescribe the maximum service charge  
 26 to be imposed upon an applicant for renewal of a registration  
 27 by any person authorized by law to receive and remit or  
 28 transmit to the Secretary such renewal application and fees  
 29 therewith.

30 (c) If a check is delivered to the Office of the Secretary  
 31 of State as payment of any fee or tax under this Code, and such  
 32 check is not honored by the bank on which it is drawn for any  
 33 reason, the registrant or other person tendering the check  
 34 remains liable for the payment of such fee or tax. The

1 Secretary of State may assess a service charge of \$19 in  
2 addition to the fee or tax due and owing for all dishonored  
3 checks.

4 If the total amount then due and owing exceeds the sum of  
5 \$50 and has not been paid in full within 60 days from the date  
6 such fee or tax became due to the Secretary of State, the  
7 Secretary of State shall assess a penalty of 25% of such amount  
8 remaining unpaid.

9 All amounts payable under this Section shall be computed to  
10 the nearest dollar.

11 (d) The minimum fee and tax to be paid by any applicant for  
12 apportionment of a fleet of vehicles under this Code shall be  
13 \$15 if the application was filed on or before the date  
14 specified by the Secretary together with fees and taxes due. If  
15 an application and the fees or taxes due are filed after the  
16 date specified by the Secretary, the Secretary may prescribe  
17 the payment of interest at the rate of 1/2 of 1% per month or  
18 fraction thereof after such due date and a minimum of \$8.

19 (e) Trucks, truck tractors, truck tractors with loads, and  
20 motor buses, any one of which having a combined total weight in  
21 excess of 12,000 lbs. shall file an application for a Fleet  
22 Reciprocity Permit issued by the Secretary of State. This  
23 permit shall be in the possession of any driver operating a  
24 vehicle on Illinois highways. Any foreign licensed vehicle of  
25 the second division operating at any time in Illinois without a  
26 Fleet Reciprocity Permit or other proper Illinois  
27 registration, shall subject the operator to the penalties  
28 provided in Section 3-834 of this Code. For the purposes of  
29 this Code, "Fleet Reciprocity Permit" means any second division  
30 motor vehicle with a foreign license and used only in  
31 interstate transportation of goods. The fee for such permit  
32 shall be \$15 per fleet which shall include all vehicles of the  
33 fleet being registered.

34 (f) For purposes of this Section, "all-terrain vehicle or

1 off-highway motorcycle used for production agriculture" means  
2 any all-terrain vehicle or off-highway motorcycle used in the  
3 raising of or the propagation of livestock, crops for sale for  
4 human consumption, crops for livestock consumption, and  
5 production seed stock grown for the propagation of feed grains  
6 and the husbandry of animals or for the purpose of providing a  
7 food product, including the husbandry of blood stock as a main  
8 source of providing a food product. "All-terrain vehicle or  
9 off-highway motorcycle used in production agriculture" also  
10 means any all-terrain vehicle or off-highway motorcycle used in  
11 animal husbandry, floriculture, aquaculture, horticulture, and  
12 viticulture.

13 (Source: P.A. 91-37, eff. 7-1-99; 91-441, eff. 1-1-00; 92-16,  
14 eff. 6-28-01.)

15 (625 ILCS 5/3-821.2 new)

16 Sec. 3-821.2. Delinquent Registration Renewal Fee. For  
17 registration renewal periods beginning on or after January 1,  
18 2005, the Secretary of State may impose a delinquent  
19 registration renewal fee of \$20 for the registration renewal of  
20 all passenger vehicles of the first division and motor vehicles  
21 of the second division weighing not more than 8,000 pounds if  
22 the application for registration renewal is received by the  
23 Secretary more than one month after the expiration of the most  
24 recent period during which the vehicle was registered. If a  
25 delinquent registration renewal fee is imposed, the Secretary  
26 shall not renew the registration of such a vehicle until the  
27 delinquent registration renewal fee has been paid, in addition  
28 to any other registration fees owed for the vehicle. Active  
29 duty military personnel stationed outside of Illinois shall not  
30 be required to pay the delinquent registration renewal fee. If  
31 a delinquent registration renewal fee is imposed, the Secretary  
32 shall adopt rules for the implementation of this Section.

1 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

2 Sec. 11-501. Driving while under the influence of alcohol,  
3 other drug or drugs, intoxicating compound or compounds or any  
4 combination thereof.

5 (a) A person shall not drive or be in actual physical  
6 control of any vehicle within this State while:

7 (1) the alcohol concentration in the person's blood or  
8 breath is 0.08 or more based on the definition of blood and  
9 breath units in Section 11-501.2;

10 (2) under the influence of alcohol;

11 (3) under the influence of any intoxicating compound or  
12 combination of intoxicating compounds to a degree that  
13 renders the person incapable of driving safely;

14 (4) under the influence of any other drug or  
15 combination of drugs to a degree that renders the person  
16 incapable of safely driving;

17 (5) under the combined influence of alcohol, other drug  
18 or drugs, or intoxicating compound or compounds to a degree  
19 that renders the person incapable of safely driving; or

20 (6) there is any amount of a drug, substance, or  
21 compound in the person's breath, blood, or urine resulting  
22 from the unlawful use or consumption of cannabis listed in  
23 the Cannabis Control Act, a controlled substance listed in  
24 the Illinois Controlled Substances Act, or an intoxicating  
25 compound listed in the Use of Intoxicating Compounds Act.

26 (b) The fact that any person charged with violating this  
27 Section is or has been legally entitled to use alcohol, other  
28 drug or drugs, or intoxicating compound or compounds, or any  
29 combination thereof, shall not constitute a defense against any  
30 charge of violating this Section.

31 (c) Except as provided under paragraphs (c-3), (c-4), and  
32 (d) of this Section, every person convicted of violating this  
33 Section or a similar provision of a local ordinance, shall be  
34 guilty of a Class A misdemeanor and, in addition to any other

1 criminal or administrative action, for any second conviction of  
2 violating this Section or a similar provision of a law of  
3 another state or local ordinance committed within 5 years of a  
4 previous violation of this Section or a similar provision of a  
5 local ordinance shall be mandatorily sentenced to a minimum of  
6 5 days of imprisonment or assigned to a minimum of 30 days of  
7 community service as may be determined by the court. Every  
8 person convicted of violating this Section or a similar  
9 provision of a local ordinance shall be subject to an  
10 additional mandatory minimum fine of \$500 and an additional  
11 mandatory 5 days of community service in a program benefiting  
12 children if the person committed a violation of paragraph (a)  
13 or a similar provision of a local ordinance while transporting  
14 a person under age 16. Every person convicted a second time for  
15 violating this Section or a similar provision of a local  
16 ordinance within 5 years of a previous violation of this  
17 Section or a similar provision of a law of another state or  
18 local ordinance shall be subject to an additional mandatory  
19 minimum fine of \$500 and an additional 10 days of mandatory  
20 community service in a program benefiting children if the  
21 current offense was committed while transporting a person under  
22 age 16. The imprisonment or assignment under this subsection  
23 shall not be subject to suspension nor shall the person be  
24 eligible for probation in order to reduce the sentence or  
25 assignment.

26 (c-1) (1) A person who violates this Section during a  
27 period in which his or her driving privileges are revoked  
28 or suspended, where the revocation or suspension was for a  
29 violation of this Section, Section 11-501.1, paragraph (b)  
30 of Section 11-401, or Section 9-3 of the Criminal Code of  
31 1961 is guilty of a Class 4 felony.

32 (2) A person who violates this Section a third time  
33 during a period in which his or her driving privileges are  
34 revoked or suspended where the revocation or suspension was



1 for a violation of this Section, Section 11-501.1,  
2 paragraph (b) of Section 11-401, or Section 9-3 of the  
3 Criminal Code of 1961 is guilty of a Class 3 felony.

4 (3) A person who violates this Section a fourth or  
5 subsequent time during a period in which his or her driving  
6 privileges are revoked or suspended where the revocation or  
7 suspension was for a violation of this Section, Section  
8 11-501.1, paragraph (b) of Section 11-401, or Section 9-3  
9 of the Criminal Code of 1961 is guilty of a Class 2 felony.

10 (c-2) (Blank).

11 (c-3) Every person convicted of violating this Section or a  
12 similar provision of a local ordinance who had a child under  
13 age 16 in the vehicle at the time of the offense shall have his  
14 or her punishment under this Act enhanced by 2 days of  
15 imprisonment for a first offense, 10 days of imprisonment for a  
16 second offense, 30 days of imprisonment for a third offense,  
17 and 90 days of imprisonment for a fourth or subsequent offense,  
18 in addition to the fine and community service required under  
19 subsection (c) and the possible imprisonment required under  
20 subsection (d). The imprisonment or assignment under this  
21 subsection shall not be subject to suspension nor shall the  
22 person be eligible for probation in order to reduce the  
23 sentence or assignment.

24 (c-4) When a person is convicted of violating Section  
25 11-501 of this Code or a similar provision of a local  
26 ordinance, the following penalties apply when his or her blood,  
27 breath, or urine was .16 or more based on the definition of  
28 blood, breath, or urine units in Section 11-501.2 or when that  
29 person is convicted of violating this Section while  
30 transporting a child under the age of 16:

31 (1) A person who is convicted of violating subsection  
32 (a) of Section 11-501 of this Code a first time, in  
33 addition to any other penalty that may be imposed under  
34 subsection (c), is subject to a mandatory minimum of 100

1 hours of community service and a minimum fine of \$500.

2 (2) A person who is convicted of violating subsection  
3 (a) of Section 11-501 of this Code a second time within 10  
4 years, in addition to any other penalty that may be imposed  
5 under subsection (c), is subject to a mandatory minimum of  
6 2 days of imprisonment and a minimum fine of \$1,250.

7 (3) A person who is convicted of violating subsection  
8 (a) of Section 11-501 of this Code a third time within 20  
9 years is guilty of a Class 4 felony and, in addition to any  
10 other penalty that may be imposed under subsection (c), is  
11 subject to a mandatory minimum of 90 days of imprisonment  
12 and a minimum fine of \$2,500.

13 (4) A person who is convicted of violating this  
14 subsection (c-4) a fourth or subsequent time is guilty of a  
15 Class 2 felony and, in addition to any other penalty that  
16 may be imposed under subsection (c), is not eligible for a  
17 sentence of probation or conditional discharge and is  
18 subject to a minimum fine of \$2,500.

19 (d) (1) Every person convicted of committing a violation of  
20 this Section shall be guilty of aggravated driving under  
21 the influence of alcohol, other drug or drugs, or  
22 intoxicating compound or compounds, or any combination  
23 thereof if:

24 (A) the person committed a violation of this  
25 Section, or a similar provision of a law of another  
26 state or a local ordinance when the cause of action is  
27 the same as or substantially similar to this Section,  
28 for the third or subsequent time;

29 (B) the person committed a violation of paragraph  
30 (a) while driving a school bus with children on board;

31 (C) the person in committing a violation of  
32 paragraph (a) was involved in a motor vehicle accident  
33 that resulted in great bodily harm or permanent  
34 disability or disfigurement to another, when the

1 violation was a proximate cause of the injuries;

2 (D) the person committed a violation of paragraph  
3 (a) for a second time and has been previously convicted  
4 of violating Section 9-3 of the Criminal Code of 1961  
5 relating to reckless homicide in which the person was  
6 determined to have been under the influence of alcohol,  
7 other drug or drugs, or intoxicating compound or  
8 compounds as an element of the offense or the person  
9 has previously been convicted under subparagraph (C)  
10 or subparagraph (F) of this paragraph (1);

11 (E) the person, in committing a violation of  
12 paragraph (a) while driving at any speed in a school  
13 speed zone at a time when a speedlimit of 20 miles per  
14 hour was in effect under subsection (a) of Section  
15 11-605 of this Code, was involved in a motor vehicle  
16 accident that resulted in bodily harm, other than great  
17 bodily harm or permanent disability or disfigurement,  
18 to another person, when the violation of paragraph (a)  
19 was a proximate cause of the bodily harm; or

20 (F) the person, in committing a violation of  
21 paragraph (a), was involved in a motor vehicle,  
22 snowmobile, all-terrain vehicle, or watercraft  
23 accident that resulted in the death of another person,  
24 when the violation of paragraph (a) was a proximate  
25 cause of the death.

26 (2) Except as provided in this paragraph (2),  
27 aggravated driving under the influence of alcohol, other  
28 drug or drugs, or intoxicating compound or compounds, or  
29 any combination thereof is a Class 4 felony. For a  
30 violation of subparagraph (C) of paragraph (1) of this  
31 subsection (d), the defendant, if sentenced to a term of  
32 imprisonment, shall be sentenced to not less than one year  
33 nor more than 12 years. Aggravated driving under the  
34 influence of alcohol, other drug or drugs, or intoxicating

1 compound or compounds, or any combination thereof as  
2 defined in subparagraph (F) of paragraph (1) of this  
3 subsection (d) is a Class 2 felony, for which the  
4 defendant, if sentenced to a term of imprisonment, shall be  
5 sentenced to: (A) a term of imprisonment of not less than 3  
6 years and not more than 14 years if the violation resulted  
7 in the death of one person; or (B) a term of imprisonment  
8 of not less than 6 years and not more than 28 years if the  
9 violation resulted in the deaths of 2 or more persons. For  
10 any prosecution under this subsection (d), a certified copy  
11 of the driving abstract of the defendant shall be admitted  
12 as proof of any prior conviction.

13 (e) After a finding of guilt and prior to any final  
14 sentencing, or an order for supervision, for an offense based  
15 upon an arrest for a violation of this Section or a similar  
16 provision of a local ordinance, individuals shall be required  
17 to undergo a professional evaluation to determine if an  
18 alcohol, drug, or intoxicating compound abuse problem exists  
19 and the extent of the problem, and undergo the imposition of  
20 treatment as appropriate. Programs conducting these  
21 evaluations shall be licensed by the Department of Human  
22 Services. The cost of any professional evaluation shall be paid  
23 for by the individual required to undergo the professional  
24 evaluation.

25 (e-1) Any person who is found guilty of or pleads guilty to  
26 violating this Section, including any person receiving a  
27 disposition of court supervision for violating this Section,  
28 may be required by the Court to attend a victim impact panel  
29 offered by, or under contract with, a County State's Attorney's  
30 office, a probation and court services department, Mothers  
31 Against Drunk Driving, or the Alliance Against Intoxicated  
32 Motorists. All costs generated by the victim impact panel shall  
33 be paid from fees collected from the offender or as may be  
34 determined by the court.

1 (f) Every person found guilty of violating this Section,  
2 whose operation of a motor vehicle while in violation of this  
3 Section proximately caused any incident resulting in an  
4 appropriate emergency response, shall be liable for the expense  
5 of an emergency response as provided under Section 5-5-3 of the  
6 Unified Code of Corrections.

7 (g) The Secretary of State shall revoke the driving  
8 privileges of any person convicted under this Section or a  
9 similar provision of a local ordinance.

10 (h) Every person sentenced under paragraph (2) or (3) of  
11 subsection (c-1) of this Section or subsection (d) of this  
12 Section and who receives a term of probation or conditional  
13 discharge shall be required to serve a minimum term of either  
14 60 days community service or 10 days of imprisonment as a  
15 condition of the probation or conditional discharge. This  
16 mandatory minimum term of imprisonment or assignment of  
17 community service shall not be suspended and shall not be  
18 subject to reduction by the court.

19 (i) The Secretary of State shall require the use of  
20 ignition interlock devices on all vehicles owned by an  
21 individual who has been convicted of a second or subsequent  
22 offense of this Section or a similar provision of a local  
23 ordinance. The Secretary shall establish by rule and regulation  
24 the procedures for certification and use of the interlock  
25 system.

26 (j) In addition to any other penalties and liabilities, a  
27 person who is found guilty of or pleads guilty to violating  
28 this Section, including any person placed on court supervision  
29 for violating this Section, shall be fined \$500 ~~\$100~~, payable  
30 to the circuit clerk, who shall distribute the money as  
31 follows: 20% to the law enforcement agency that made the arrest  
32 and 80% shall be forwarded to the State Treasurer for deposit  
33 into the General Revenue Fund. If the person has been  
34 previously convicted of violating this Section or a similar

1 provision of a local ordinance, the fine shall be \$1,000 ~~\$200~~.  
2 In the event that more than one agency is responsible for the  
3 arrest, the amount payable to law enforcement agencies ~~\$100 or~~  
4 ~~\$200~~ shall be shared equally. Any moneys received by a law  
5 enforcement agency under this subsection (j) shall be used to  
6 purchase law enforcement equipment that will assist in the  
7 prevention of alcohol related criminal violence throughout the  
8 State. This shall include, but is not limited to, in-car video  
9 cameras, radar and laser speed detection devices, and alcohol  
10 breath testers. Any moneys received by the Department of State  
11 Police under this subsection (j) shall be deposited into the  
12 State Police DUI Fund and shall be used to purchase law  
13 enforcement equipment that will assist in the prevention of  
14 alcohol related criminal violence throughout the State.

15 (k) The Secretary of State Police DUI Fund is created as a  
16 special fund in the State treasury. All moneys received by the  
17 Secretary of State Police under subsection (j) of this Section  
18 shall be deposited into the Secretary of State Police DUI Fund  
19 and, subject to appropriation, shall be used to purchase law  
20 enforcement equipment to assist in the prevention of alcohol  
21 related criminal violence throughout the State.

22 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;  
23 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;  
24 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.  
25 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)

26 ARTICLE 35

27 Section 35-1. Short title. This Article may be cited as the  
28 Tax Shelter Voluntary Compliance Law, and references in this  
29 Article to "this Law" mean this Article.

30 Section 35-5. Tax Shelter Voluntary Compliance Program.

31 (a) In general. The Department of Revenue shall establish

1 and administer a tax shelter voluntary compliance program as  
2 provided in this Section for eligible taxpayers subject to tax  
3 under the Illinois Income Tax Act. The tax shelter voluntary  
4 compliance program shall be conducted from October 15, 2004 to  
5 January 31, 2005 and shall apply to tax liabilities under  
6 Section 201 of the Illinois Income Tax Act attributable to the  
7 use of tax avoidance transactions for taxable years beginning  
8 before January 1, 2004. The Department shall adopt rules, issue  
9 forms and instructions, and take such other actions as it deems  
10 necessary to implement the provisions of this Law. Any  
11 correspondence mailed by the Department to a taxpayer at the  
12 taxpayer's last known address outlining the tax shelter  
13 voluntary compliance program constitutes a "contact" within  
14 the meaning of Sections 1005(b)(6) and 1005(c) of the Illinois  
15 Income Tax Act.

16 (b) Election. An eligible taxpayer that meets the  
17 requirements of subsection (c) of this Section with respect to  
18 any taxable year to which this Law applies may elect to  
19 participate in the tax shelter voluntary compliance program  
20 under either method for any particular tax avoidance  
21 transaction period. Such election shall be made separately for  
22 each taxable year and in the form and manner prescribed by the  
23 Department, and once made shall be irrevocable.

24 (1) Voluntary compliance without appeal. If an  
25 eligible taxpayer elects to participate under this  
26 paragraph, then: (i) the Department shall abate and not  
27 seek to collect any penalty that may be applicable to the  
28 underreporting or underpayment of Illinois income tax  
29 attributable to the use of tax avoidance transactions for  
30 such taxable year, (ii) except as otherwise provided in  
31 this Law, the Department shall not seek civil or criminal  
32 prosecution against the taxpayer for such taxable year with  
33 respect to tax avoidance transactions, and (iii) the  
34 taxpayer may not file a claim for credit or refund with

1 respect to the tax avoidance transaction for such taxable  
2 year. Nothing in this subsection shall preclude a taxpayer  
3 from filing a claim for credit or refund for the same  
4 taxable year in which a tax avoidance transaction was  
5 reported if such credit or refund is not attributable to  
6 the tax avoidance transaction. No penalty may be waived or  
7 abated under this Law if the penalty imposed related to an  
8 amount of Illinois income tax assessed prior to October 15,  
9 2004.

10 (2) Voluntary compliance with appeal. If an eligible  
11 taxpayer elects to participate under this paragraph, then:  
12 (i) the Department shall abate and not seek to collect the  
13 penalties imposed under Sections 1005(b) and 1005(c) of the  
14 Illinois Income Tax Act with respect to such taxable year,  
15 (ii) except as otherwise provided in this Act, the  
16 Department shall not seek civil or criminal prosecution  
17 against the taxpayer for such taxable year with respect to  
18 tax avoidance transactions, and (iii) the taxpayer may file  
19 a claim for credit or refund as provided in the Illinois  
20 Income Tax Act with respect to such taxable year.  
21 Notwithstanding Section 909(e) of the Illinois Income Tax  
22 Act, the taxpayer may not file a written protest until  
23 after either of the following: (i) the Department issues a  
24 notice of denial, or (ii) the earlier of (1) the date which  
25 is 180 days after the date of a final determination by the  
26 Internal Revenue Service with respect to the transactions  
27 at issue, or (2) the date that is 3 years after the date  
28 the claim for refund was filed or one year after full  
29 payment of all tax, including penalty and interest. No  
30 penalty may be waived or abated under this Act if the  
31 penalty imposed relates to an amount of Illinois income tax  
32 assessed prior to October 15, 2004.

33 (c) Eligible taxpayer. The tax shelter voluntary  
34 compliance program applies to any taxpayer who, during the



1 period from October 15, 2004 to January 31, 2005, does both of  
2 the following:

3 (1) Files an amended return for the taxable year for  
4 which the taxpayer used a tax avoidance transaction to  
5 under report the taxpayer's Illinois income tax liability,  
6 reporting the total Illinois net income and tax for such  
7 taxable year computed without regard to any tax avoidance  
8 transactions;

9 (2) Makes full payment of the additional Illinois  
10 income tax and interest due for such taxable year that is  
11 attributable to the use of the tax avoidance transaction  
12 (not including a payment made under protest as provided in  
13 Section 2a.1 of the State Officers and Employees Money  
14 Disposition Act (30 ILCS 230/2a.1));

15 For purposes of this subsection (c), if the Department  
16 subsequently determines that the correct amount of Illinois  
17 income tax was not paid for the taxable year, then the penalty  
18 relief under this Section shall not apply to any portion of the  
19 underpayment attributable to a tax avoidance transaction not  
20 paid to the State.

21 Section 35-10. "Tax avoidance transaction" defined. For  
22 purposes of this Law, the term "tax avoidance transaction"  
23 means a plan or arrangement devised for the principal purpose  
24 of avoiding federal income tax. Tax avoidance transactions  
25 include, but are not limited to, "listed transactions" as  
26 defined in Treasury Regulations Section 1.6011-4(b)(2).

27 Section 35-15. Use of evidence of participation in the  
28 program. The fact of a taxpayer's participation in the tax  
29 shelter voluntary compliance program shall not be considered  
30 evidence that the taxpayer in fact engaged in a tax avoidance  
31 transaction.

1 Section 35-90. The Illinois Income Tax Act is amended by  
2 changing Sections 501, 905, 1001, 1002, and 1005 and by adding  
3 Sections 1007, 1008, 1405.5, and 1405.6 as follows:

4 (35 ILCS 5/501) (from Ch. 120, par. 5-501)

5 Sec. 501. Notice or Regulations Requiring Records,  
6 Statements and Special Returns.

7 (a) In general. Every person liable for any tax imposed by  
8 this Act shall keep such records, render such statements, make  
9 such returns and notices, and comply with such rules and  
10 regulations as the Department may from time to time prescribe.  
11 Whenever in the judgment of the Director it is necessary, he  
12 may require any person, by notice served upon such person or by  
13 regulations, to make such returns and notices, render such  
14 statements, or keep such records, as the Director deems  
15 sufficient to show whether or not such person is liable for tax  
16 under this Act.

17 (b) Reportable transactions. For each taxable year in which  
18 a taxpayer is required to make a disclosure statement under  
19 Treasury Regulations Section 1.6011-4 (26 CFR 1.6011-4)  
20 (including any taxpayer that is a member of a consolidated  
21 group required to make such disclosure) with respect to a  
22 reportable transaction (including a listed transaction) in  
23 which the taxpayer participated in a taxable year for which a  
24 return is required under Section 502 of this Act, such taxpayer  
25 shall file a copy of such disclosure with the Department.  
26 Disclosure under this subsection is required to be made by any  
27 taxpayer that is a member of a unitary business group that  
28 includes any person required to make a disclosure statement  
29 under Treasury Regulations Section 1.6011-4. Disclosure under  
30 this subsection is required with respect to any transaction  
31 entered into after February 28, 2000 that becomes a listed  
32 transaction at any time, and shall be made in the manner  
33 prescribed by the Department. With respect to transactions in

1 which the taxpayer participated for taxable years ending before  
2 December 31, 2004, disclosure shall be made by the due date  
3 (including extensions) of the first return required under  
4 Section 502 of this Act due after the effective date of this  
5 amendatory Act of the 93rd General Assembly. With respect to  
6 transactions in which the taxpayer participated for taxable  
7 years ending on and after December 31, 2004, disclosure shall  
8 be made in the time and manner prescribed in Treasury  
9 Regulations Section 1.6011-4(e). Notwithstanding the above, no  
10 disclosure is required for transactions entered into after  
11 February 28, 2000 and before January 1, 2005 (i) if the  
12 taxpayer has filed an amended Illinois income tax return which  
13 reverses the tax benefits of the potential tax avoidance  
14 transaction, or (ii) as a result of a federal audit the  
15 Internal Revenue Service has determined the tax treatment of  
16 the transaction and an Illinois amended return has been filed  
17 to reflect the federal treatment.

18 (Source: P.A. 76-261.)

19 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

20 Sec. 905. Limitations on Notices of Deficiency.

21 (a) In general. Except as otherwise provided in this Act:

22 (1) A notice of deficiency shall be issued not later  
23 than 3 years after the date the return was filed, and

24 (2) No deficiency shall be assessed or collected with  
25 respect to the year for which the return was filed unless  
26 such notice is issued within such period.

27 (b) Substantial omission of items.

28 (1) Omission of more than 25% of income. If the  
29 taxpayer omits from base income an amount properly  
30 includible therein which is in excess of 25% of the amount  
31 of base income stated in the return, a notice of deficiency  
32 may be issued not later than 6 years after the return was  
33 filed. For purposes of this paragraph, there shall not be

1 taken into account any amount which is omitted in the  
2 return if such amount is disclosed in the return, or in a  
3 statement attached to the return, in a manner adequate to  
4 apprise the Department of the nature and the amount of such  
5 item.

6 (2) Reportable transactions. If a taxpayer fails to  
7 include on any return or statement for any taxable year any  
8 information with respect to a reportable transaction, as  
9 required under Section 501(b) of this Act, a notice of  
10 deficiency may be issued not later than 6 years after the  
11 return is filed with respect to the taxable year in which  
12 the taxpayer participated in the reportable transaction  
13 and said deficiency is limited to the non-disclosed item.

14 (c) No return or fraudulent return. If no return is filed  
15 or a false and fraudulent return is filed with intent to evade  
16 the tax imposed by this Act, a notice of deficiency may be  
17 issued at any time.

18 (d) Failure to report federal change. If a taxpayer fails  
19 to notify the Department in any case where notification is  
20 required by Section 304(c) or 506(b), or fails to report a  
21 change or correction which is treated in the same manner as if  
22 it were a deficiency for federal income tax purposes, a notice  
23 of deficiency may be issued (i) at any time or (ii) on or after  
24 August 13, 1999, at any time for the taxable year for which the  
25 notification is required or for any taxable year to which the  
26 taxpayer may carry an Article 2 credit, or a Section 207 loss,  
27 earned, incurred, or used in the year for which the  
28 notification is required; provided, however, that the amount of  
29 any proposed assessment set forth in the notice shall be  
30 limited to the amount of any deficiency resulting under this  
31 Act from the recomputation of the taxpayer's net income,  
32 Article 2 credits, or Section 207 loss earned, incurred, or  
33 used in the taxable year for which the notification is required  
34 after giving effect to the item or items required to be

1 reported.

2 (e) Report of federal change.

3 (1) Before August 13, 1999, in any case where  
4 notification of an alteration is given as required by  
5 Section 506(b), a notice of deficiency may be issued at any  
6 time within 2 years after the date such notification is  
7 given, provided, however, that the amount of any proposed  
8 assessment set forth in such notice shall be limited to the  
9 amount of any deficiency resulting under this Act from  
10 recomputation of the taxpayer's net income, net loss, or  
11 Article 2 credits for the taxable year after giving effect  
12 to the item or items reflected in the reported alteration.

13 (2) On and after August 13, 1999, in any case where  
14 notification of an alteration is given as required by  
15 Section 506(b), a notice of deficiency may be issued at any  
16 time within 2 years after the date such notification is  
17 given for the taxable year for which the notification is  
18 given or for any taxable year to which the taxpayer may  
19 carry an Article 2 credit, or a Section 207 loss, earned,  
20 incurred, or used in the year for which the notification is  
21 given, provided, however, that the amount of any proposed  
22 assessment set forth in such notice shall be limited to the  
23 amount of any deficiency resulting under this Act from  
24 recomputation of the taxpayer's net income, Article 2  
25 credits, or Section 207 loss earned, incurred, or used in  
26 the taxable year for which the notification is given after  
27 giving effect to the item or items reflected in the  
28 reported alteration.

29 (f) Extension by agreement. Where, before the expiration of  
30 the time prescribed in this Section for the issuance of a  
31 notice of deficiency, both the Department and the taxpayer  
32 shall have consented in writing to its issuance after such  
33 time, such notice may be issued at any time prior to the  
34 expiration of the period agreed upon. In the case of a taxpayer

1 who is a partnership, Subchapter S corporation, or trust and  
2 who enters into an agreement with the Department pursuant to  
3 this subsection on or after January 1, 2003, a notice of  
4 deficiency may be issued to the partners, shareholders, or  
5 beneficiaries of the taxpayer at any time prior to the  
6 expiration of the period agreed upon. Any proposed assessment  
7 set forth in the notice, however, shall be limited to the  
8 amount of any deficiency resulting under this Act from  
9 recomputation of items of income, deduction, credits, or other  
10 amounts of the taxpayer that are taken into account by the  
11 partner, shareholder, or beneficiary in computing its  
12 liability under this Act. The period so agreed upon may be  
13 extended by subsequent agreements in writing made before the  
14 expiration of the period previously agreed upon.

15 (g) Erroneous refunds. In any case in which there has been  
16 an erroneous refund of tax payable under this Act, a notice of  
17 deficiency may be issued at any time within 2 years from the  
18 making of such refund, or within 5 years from the making of  
19 such refund if it appears that any part of the refund was  
20 induced by fraud or the misrepresentation of a material fact,  
21 provided, however, that the amount of any proposed assessment  
22 set forth in such notice shall be limited to the amount of such  
23 erroneous refund.

24 Beginning July 1, 1993, in any case in which there has been  
25 a refund of tax payable under this Act attributable to a net  
26 loss carryback as provided for in Section 207, and that refund  
27 is subsequently determined to be an erroneous refund due to a  
28 reduction in the amount of the net loss which was originally  
29 carried back, a notice of deficiency for the erroneous refund  
30 amount may be issued at any time during the same time period in  
31 which a notice of deficiency can be issued on the loss year  
32 creating the carryback amount and subsequent erroneous refund.  
33 The amount of any proposed assessment set forth in the notice  
34 shall be limited to the amount of such erroneous refund.

1 (h) Time return deemed filed. For purposes of this Section  
2 a tax return filed before the last day prescribed by law  
3 (including any extension thereof) shall be deemed to have been  
4 filed on such last day.

5 (i) Request for prompt determination of liability. For  
6 purposes of subsection (a)(1), in the case of a tax return  
7 required under this Act in respect of a decedent, or by his  
8 estate during the period of administration, or by a  
9 corporation, the period referred to in such Subsection shall be  
10 18 months after a written request for prompt determination of  
11 liability is filed with the Department (at such time and in  
12 such form and manner as the Department shall by regulations  
13 prescribe) by the executor, administrator, or other fiduciary  
14 representing the estate of such decedent, or by such  
15 corporation, but not more than 3 years after the date the  
16 return was filed. This subsection shall not apply in the case  
17 of a corporation unless:

18 (1) (A) such written request notifies the Department  
19 that the corporation contemplates dissolution at or before  
20 the expiration of such 18-month period, (B) the dissolution  
21 is begun in good faith before the expiration of such  
22 18-month period, and (C) the dissolution is completed;

23 (2) (A) such written request notifies the Department  
24 that a dissolution has in good faith been begun, and (B)  
25 the dissolution is completed; or

26 (3) a dissolution has been completed at the time such  
27 written request is made.

28 (j) Withholding tax. In the case of returns required under  
29 Article 7 of this Act (with respect to any amounts withheld as  
30 tax or any amounts required to have been withheld as tax) a  
31 notice of deficiency shall be issued not later than 3 years  
32 after the 15th day of the 4th month following the close of the  
33 calendar year in which such withholding was required.

34 (k) Penalties for failure to make information reports. A

1 notice of deficiency for the penalties provided by Subsection  
2 1405.1(c) of this Act may not be issued more than 3 years after  
3 the due date of the reports with respect to which the penalties  
4 are asserted.

5 (l) Penalty for failure to file withholding returns. A  
6 notice of deficiency for penalties provided by Section 1004 of  
7 this Act for taxpayer's failure to file withholding returns may  
8 not be issued more than three years after the 15th day of the  
9 4th month following the close of the calendar year in which the  
10 withholding giving rise to taxpayer's obligation to file those  
11 returns occurred.

12 (m) Transferee liability. A notice of deficiency may be  
13 issued to a transferee relative to a liability asserted under  
14 Section 1405 during time periods defined as follows:

15 1) Initial Transferee. In the case of the liability of  
16 an initial transferee, up to 2 years after the expiration  
17 of the period of limitation for assessment against the  
18 transferor, except that if a court proceeding for review of  
19 the assessment against the transferor has begun, then up to  
20 2 years after the return of the certified copy of the  
21 judgment in the court proceeding.

22 2) Transferee of Transferee. In the case of the  
23 liability of a transferee, up to 2 years after the  
24 expiration of the period of limitation for assessment  
25 against the preceding transferee, but not more than 3 years  
26 after the expiration of the period of limitation for  
27 assessment against the initial transferor; except that if,  
28 before the expiration of the period of limitation for the  
29 assessment of the liability of the transferee, a court  
30 proceeding for the collection of the tax or liability in  
31 respect thereof has been begun against the initial  
32 transferor or the last preceding transferee, as the case  
33 may be, then the period of limitation for assessment of the  
34 liability of the transferee shall expire 2 years after the



1 return of the certified copy of the judgment in the court  
2 proceeding.

3 (n) Notice of decrease in net loss. On and after the  
4 effective date of this amendatory Act of the 92nd General  
5 Assembly, no notice of deficiency shall be issued as the result  
6 of a decrease determined by the Department in the net loss  
7 incurred by a taxpayer under Section 207 of this Act unless the  
8 Department has notified the taxpayer of the proposed decrease  
9 within 3 years after the return reporting the loss was filed or  
10 within one year after an amended return reporting an increase  
11 in the loss was filed, provided that in the case of an amended  
12 return, a decrease proposed by the Department more than 3 years  
13 after the original return was filed may not exceed the increase  
14 claimed by the taxpayer on the original return.

15 (Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

16 (35 ILCS 5/1001) (from Ch. 120, par. 10-1001)

17 Sec. 1001. Failure to File Tax Returns.

18 (a) Failure to file tax return. In case of failure to file  
19 any tax return required under this Act on the date prescribed  
20 therefor, (determined with regard to any extensions of time for  
21 filing) there shall be added as a penalty the amount prescribed  
22 by Section 3-3 of the Uniform Penalty and Interest Act.

23 (b) Failure to disclose reportable transaction. Any  
24 taxpayer who fails to comply with the requirements of Section  
25 501(b) of this Act shall pay a penalty in the amount determined  
26 under this subsection. Such penalty shall be deemed assessed  
27 upon the date of filing of the return for the taxable year in  
28 which the taxpayer participates in the reportable transaction.  
29 A taxpayer shall not be considered to have complied with the  
30 requirements of Section 501(b) of this Act unless the  
31 disclosure statement filed with the Department includes all of  
32 the information required to be disclosed with respect to a  
33 reportable transaction pursuant to Treasury Regulations

1 Section 1.6011-4 (26 CFR 1.6011-4) and regulations promulgated  
2 by the Department under Section 501(b) of this Act.

3 (1) Amount of penalty. Except as provided in paragraph (2),  
4 the amount of the penalty under this subsection shall be  
5 \$15,000 for each failure to comply with the requirements of  
6 Section 501(b).

7 (2) Increase in penalty for listed transactions. In the  
8 case of a failure to comply with the requirements of Section  
9 501(b) with respect to a "listed transaction", the penalty  
10 under this subsection shall be \$30,000 for each failure.

11 (3) Authority to rescind penalty. The Department may  
12 rescind all or any portion of any penalty imposed by this  
13 subsection with respect to any violation, if any of the  
14 following apply:

15 (A) It is determined that failure to comply did not  
16 jeopardize the best interests of the State and is not due  
17 to any willful neglect or any intent not to comply;

18 (B) The person on whom the penalty is imposed has a  
19 history of complying with the requirements of this Act;

20 (C) It is shown that the violation is due to an  
21 unintentional mistake of fact;

22 (D) Imposing the penalty would be against equity and  
23 good conscience;

24 (E) Rescinding the penalty would promote compliance  
25 with the requirements of this Act and effective tax  
26 administration; or

27 (F) The taxpayer can show that there was a reasonable  
28 cause for the failure to disclose and that the taxpayer  
29 acted in good faith.

30 A determination made under this subparagraph (3) may be  
31 reviewed in any administrative or judicial proceeding.

32 (4) Coordination with other penalties. The penalty imposed  
33 by this subsection is in addition to any penalty imposed by  
34 this Act or the Uniform Penalty and Interest Act. The doubling

1 of penalties and interest authorized by the Illinois Tax  
2 Delinquency Amnesty Act (P.A. 93-26) are not applicable to the  
3 reportable penalties under subsection (b).

4 (c) The total penalty imposed under subsection (b) of this  
5 Section with respect to any taxable year shall not exceed 10%  
6 of the increase in net income (or reduction in Illinois net  
7 loss under Section 207 of this Act) that would result had the  
8 taxpayer not participated in any reportable transaction  
9 affecting its net income for such taxable year.

10 (Source: P.A. 87-205.)

11 (35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

12 Sec. 1002. Failure to Pay Tax.

13 (a) Negligence. If any part of a deficiency is due to  
14 negligence or intentional disregard of rules and regulations  
15 (but without intent to defraud) there shall be added to the tax  
16 as a penalty the amount prescribed by Section 3-5 of the  
17 Uniform Penalty and Interest Act.

18 (b) Fraud. If any part of a deficiency is due to fraud,  
19 there shall be added to the tax as a penalty the amount  
20 prescribed by Section 3-6 of the Uniform Penalty and Interest  
21 Act.

22 (c) Nonwillful failure to pay withholding tax. If any  
23 employer, without intent to evade or defeat any tax imposed by  
24 this Act or the payment thereof, shall fail to make a return  
25 and pay a tax withheld by him at the time required by or under  
26 the provisions of this Act, such employer shall be liable for  
27 such taxes and shall pay the same together with the interest  
28 and the penalty provided by Sections 3-2 and 3-3, respectively,  
29 of the Uniform Penalty and Interest Act and such interest and  
30 penalty shall not be charged to or collected from the employee  
31 by the employer.

32 (d) Willful failure to collect and pay over tax. Any person  
33 required to collect, truthfully account for, and pay over the

1 tax imposed by this Act who willfully fails to collect such tax  
2 or truthfully account for and pay over such tax or willfully  
3 attempts in any manner to evade or defeat the tax or the  
4 payment thereof, shall, in addition to other penalties provided  
5 by law, be liable for the penalty imposed by Section 3-7 of the  
6 Uniform Penalty and Interest Act.

7 (e) Penalties assessable.

8 (1) In general. Except as otherwise provided in this  
9 Act ~~provided in paragraphs (2), (3) and (4)~~, the penalties  
10 provided by this Act shall be paid upon notice and demand  
11 and shall be assessed, collected, and paid in the same  
12 manner as taxes and any reference in this Act to the tax  
13 imposed by this Act shall be deemed also to refer to  
14 penalties provided by this Act.

15 (2) Procedure for assessing certain penalties. For the  
16 purposes of Article 9 any penalty under Section 804(a) or  
17 Section 1001 shall be deemed assessed upon the filing of  
18 the return for the taxable year.

19 (3) Procedure for assessing the penalty for failure to  
20 file withholding returns or annual transmittal forms for  
21 wage and tax statements. The penalty imposed by Section  
22 1004 will be asserted by the Department's issuance of a  
23 notice of deficiency. If taxpayer files a timely protest,  
24 the procedures of Section 908 will be followed. If taxpayer  
25 does not file a timely protest, the notice of deficiency  
26 will constitute an assessment pursuant to subsection (c) of  
27 Section 904.

28 (4) Assessment of penalty under Section 1005(b). The  
29 penalty imposed under Section 1005(b) shall be deemed  
30 assessed upon the assessment of the tax to which such  
31 penalty relates and shall be collected and paid on notice  
32 and demand in the same manner as the tax.

33 (f) Determination of deficiency. For purposes of  
34 subsections (a) and (b), the amount shown as the tax by the

1 taxpayer upon his return shall be taken into account in  
2 determining the amount of the deficiency only if such return  
3 was filed on or before the last day prescribed by law for the  
4 filing of such return, including any extensions of the time for  
5 such filing.

6 (Source: P.A. 89-379, eff. 1-1-96.)

7 (35 ILCS 5/1005) (from Ch. 120, par. 10-1005)

8 Sec. 1005. Penalty for Underpayment of Tax.

9 (a) In general. If any amount of tax required to be shown  
10 on a return prescribed by this Act is not paid on or before the  
11 date required for filing such return (determined without regard  
12 to any extension of time to file), a penalty shall be imposed  
13 in the manner and at the rate prescribed by the Uniform Penalty  
14 and Interest Act.

15 (b) Reportable transaction penalty. If a taxpayer has a  
16 reportable transaction understatement for any taxable year,  
17 there shall be added to the tax an amount equal to 20% of the  
18 amount of that understatement. This penalty shall be deemed  
19 assessed upon the assessment of the tax to which such penalty  
20 relates and shall be collected and paid on notice and demand in  
21 the same manner as the tax.

22 (1) Reportable transaction understatement. For  
23 purposes of this Section, the term "reportable transaction  
24 understatement" means the sum of subparagraphs (A) and (B):

25 (A) The product of (i) the amount of the increase  
26 (if any) in Illinois net income, as determined by  
27 reference to the amount of post-apportioned income  
28 that results from a difference between the proper tax  
29 treatment of an item to which this subsection applies  
30 and the taxpayer's treatment of that item (as shown on  
31 the taxpayer's return of tax), including an amended  
32 return filed prior to the date the taxpayer is first  
33 contacted by the Department regarding the examination

1           of the return, and (ii) the applicable tax rates under  
2           Section 201 of this Act.

3           (B) Special rules in the case of carrybacks and  
4           carryovers. The penalty for an understatement of  
5           income attributable to a reportable transaction  
6           applies to any portion of an understatement for a year  
7           to which a loss, deduction, or credit is carried that  
8           is attributable to a reportable transaction for that  
9           year in which the carryback or carryover of the loss,  
10           deduction, or credit arises (the "loss or credit  
11           year").

12           (2) Items to which subsection applies. This subsection  
13           shall apply to any item which is attributable to either of  
14           the following: (i) any listed transaction as defined in  
15           Treasury Regulations Section 1.6011-4, and (ii) any  
16           reportable transaction as defined in Treasury Regulations  
17           Section 1.6011-4 (other than a listed transaction) if a  
18           significant purpose of the transaction is the avoidance or  
19           evasion of federal income tax.

20           (3) Subsection (b) shall be applied by substituting  
21           "30%" for "20%" with respect to the portion of any  
22           reportable transaction understatement with respect to  
23           which the requirements of (4) (B) (i) of this subsection are  
24           not met.

25           (4) Reasonable cause exception.

26           (A) In general. No penalty shall be imposed under  
27           this subsection with respect to any portion of a  
28           reportable transaction understatement if it is shown  
29           that there was a reasonable cause for such portion and  
30           that the taxpayer acted in good faith with respect to  
31           such portion.

32           (B) Special rules. Subparagraph (A) does not apply  
33           to any reportable transaction (including listed  
34           transaction) unless all of the following requirements

1           are met:

2                   (i) The relevant facts affecting the tax  
3                   treatment of the item are adequately disclosed in  
4                   accordance with Section 501(b) of this Act. A  
5                   taxpayer failing to adequately disclose in  
6                   accordance with Section 501(b) shall be treated as  
7                   meeting the requirements of this subparagraph (i)  
8                   if the penalty for that failure was rescinded under  
9                   Section 1001(b) (3) of this Act;

10                   (ii) There is or was substantial authority for  
11                   such treatment; and

12                   (iii) The taxpayer reasonably believed that  
13                   such treatment was more likely than not the proper  
14                   treatment.

15                   (C) Rules relating to reasonable belief. For  
16                   purposes of subparagraph (B), a taxpayer shall be  
17                   treated as having a reasonable belief with respect to  
18                   the tax treatment of an item only if such belief meets  
19                   the requirements of this subparagraph (C):

20                   (i) Such belief must be based on the facts and  
21                   law that exist at the time the return of tax that  
22                   includes that tax treatment is filed;

23                   (ii) Such belief must relate solely to the  
24                   taxpayer's chances of success on the merits of that  
25                   treatment and does not take into account the  
26                   possibility that the return will not be audited,  
27                   that the treatment will not be raised on audit, or  
28                   that the treatment will be resolved through  
29                   settlement if it is raised; and

30                   (iii) Such belief is not solely based on the  
31                   opinion of a disqualified tax advisor or on a  
32                   disqualified opinion.

33           (5) Definitions.

34                   (A) Disqualified tax advisor. The term

1 "disqualified tax advisor" is a tax advisor that meets  
2 any of the following conditions:

3 (I) Is a material advisor who participates in  
4 the organization, management, promotion, or sale  
5 of the transaction or who is related (within the  
6 meaning of Sections 267(b) or 707(b)(1) of the  
7 Internal Revenue Code) to any person who so  
8 participates;

9 (II) Is compensated directly or indirectly by  
10 a material advisor with respect to the  
11 transaction;

12 (III) Has a fee arrangement with respect to the  
13 transaction that is contingent on all or part of  
14 the intended tax benefits from the transaction  
15 being sustained; or

16 (IV) As determined under regulations  
17 prescribed by either the Secretary of the Treasury  
18 for federal income tax purposes or the Department,  
19 has a continuing financial interest with respect  
20 to the transaction.

21 (B) Disqualified opinion. The term "disqualified  
22 opinion" means an opinion that meets any of the  
23 following conditions:

24 (I) Is based on unreasonable factual or legal  
25 assumptions (including assumptions as to future  
26 events);

27 (II) Unreasonably relies on representations,  
28 statements, findings, or agreements of the  
29 taxpayer or any other person;

30 (III) Does not identify and consider all  
31 relevant facts; or

32 (IV) Fails to meet any other requirement as  
33 either the Secretary of the Treasury for federal  
34 income tax purposes or the Department may



1           prescribe.

2           (C) Material Advisor. The term "material advisor"  
3           shall have substantially the same meaning as the same  
4           term is defined under Treasury Regulations Section  
5           301.6112-1, (26 CFR 301.6112-1) and shall include any  
6           person that is a material advisor for federal income  
7           tax purposes under such regulation.

8           (6) Effective date. This subsection shall apply to  
9           taxable years ending on and after December 31, 2004, except  
10           that a reportable transaction understatement shall include  
11           an understatement (as determined under paragraph (1)) with  
12           respect to any taxable year for which the limitations  
13           period on assessment has not expired as of January 1, 2005  
14           that is attributable to a transaction which the taxpayer  
15           has entered into after February 28, 2000 and before  
16           December 31, 2004 that becomes a listed transaction (as  
17           defined in Treasury Regulations Section 1.6011-4(b)(2) at  
18           any time.

19           (c) 100% interest penalty. If a taxpayer has been contacted  
20           by the Internal Revenue Service or the Department regarding the  
21           use of a potential tax avoidance transaction with respect to a  
22           taxable year and has a deficiency with respect to such taxable  
23           year or years, there shall be added to the tax attributable to  
24           the potential tax avoidance transaction (determined as  
25           described in subsection (b)(1) of Section 1005) an amount equal  
26           to 100% of the interest assessed under the Uniform Penalty and  
27           Interest Act (determined without regard to subsection (f) of  
28           Section 3-2 of such Act) for the period beginning on the last  
29           date prescribed by law for the payment of such tax and ending  
30           on the date of the notice of deficiency. Such penalty shall be  
31           deemed assessed upon the assessment of the interest to which  
32           such penalty relates and shall be collected and paid in the  
33           same manner as such interest. The penalty imposed by this  
34           subsection is in addition to any penalty imposed by this Act or

1 the Uniform Penalty and Interest Act. For purposes of this  
2 subsection and subsection (d) of this Section, the term  
3 "potential tax avoidance transaction" means any tax shelter as  
4 defined in Section 6111 of the Internal Revenue Code. This  
5 subsection shall apply to taxable years ending on and after  
6 December 31, 2004, except that the penalty may also be imposed  
7 with respect to any taxable year for which the limitations  
8 period on assessment has not expired as of January 1, 2005 that  
9 is attributable to a transaction in which the taxpayer has  
10 entered into after February 28, 2000 and before December 31,  
11 2004, which transaction becomes a listed transaction (as  
12 defined in Treasury Regulations Section 1.6011-4(b)(2)) at any  
13 time.

14 (d) 150% interest rate. For taxable years ending on and  
15 after July 1, 2002, for any notice of deficiency issued before  
16 the taxpayer is contacted by the Internal Revenue Service or  
17 the Department regarding a potential tax avoidance  
18 transaction, the taxpayer is subject to interest as provided  
19 under Section 3-2 of the Uniform Penalty and Interest Act, but  
20 with respect to any deficiency attributable to a potential tax  
21 avoidance transaction, the taxpayer is subject to interest at a  
22 rate of 150% of the otherwise applicable rate.

23 (e) Coordination with other penalties. Except as provided  
24 in regulations, the penalties imposed by this Section are in  
25 addition to any other penalty imposed by this Act or the  
26 Uniform Penalty and Interest Act. The doubling of penalties and  
27 interest authorized by the Illinois Tax Delinquency Amnesty Act  
28 (P.A. 93-26), are not applicable to the reportable transaction  
29 penalties and interest under subsections (b), (c), and (d).

30 ~~The provisions of this Section shall apply to all taxable~~  
31 ~~years ending on or after January 1, 1986.~~

32 (Source: P.A. 87-205.)

1       Sec. 1007. Failure to register tax shelter or maintain  
2 list.

3       (a) Penalty Imposed. Any person that fails to comply with  
4 the requirements of Section 1405.5 or Section 1405.6 shall  
5 incur a penalty as provided in this Section. A person shall not  
6 be in compliance with the requirements of Section 1405.5 unless  
7 and until the required registration has been filed and contains  
8 all of the information required to be included with such  
9 registration under Section 6111 of the Internal Revenue Code or  
10 such Section 1405.5. A person shall not be in compliance with  
11 the requirements of Section 1405.6 unless, at the time the  
12 required list is made available to the Department, such list  
13 contains all of the information required to be maintained under  
14 Section 6112 of the Internal Revenue Code or such Section  
15 1405.6.

16       (b) Amount of Penalty. The following penalties apply:

17           (1) In the case of each failure to comply with the  
18 requirements of subsection (a), subsection (b), or  
19 subsection (e) of Section 1405.5, the penalty shall be  
20 \$15,000.

21           (2) If the failure is with respect to a listed  
22 transaction under subsection (c) of Section 1405.5, the  
23 penalty shall be \$100,000.

24           (3) In the case of each failure to comply with the  
25 requirements of subsection (a) or subsection (b) of Section  
26 1405.6, the penalty shall be \$15,000.

27           (4) If the failure is with respect to a listed  
28 transaction under subsection (c) of Section 1405.6, the  
29 penalty shall be \$100,000.

30       (c) Authority to rescind penalty. The Director of the Board  
31 of Appeals may rescind all or any portion of any penalty  
32 imposed by this Section with respect to any violation, if any  
33 of the following apply:

34           (1) It is determined that failure to comply did not

1 jeopardize the best interests of the State and is not due  
2 to any willful neglect or any intent not to comply;

3 (2) The person on whom the penalty is imposed has a  
4 history of complying with the requirements of this Act;

5 (3) It is shown that the violation is due to an  
6 unintentional mistake of fact;

7 (4) Imposing the penalty would be against equity and  
8 good conscience;

9 (5) Rescinding the penalty would promote compliance  
10 with the requirements of this Act and effective tax  
11 administration; or

12 (6) The taxpayer can show that there was reasonable  
13 cause for the failure to disclose and that the taxpayer  
14 acted in good faith.

15 (d) Coordination with other penalties. The penalty imposed  
16 by this Section is in addition to any penalty imposed by this  
17 Act or the Uniform Penalty and Interest Act.

18 (35 ILCS 5/1008 new)

19 Sec. 1008. Promoting tax shelters. Except as herein  
20 provided, the provisions of Section 6700 of the Internal  
21 Revenue Code shall apply for purposes of this Act as if such  
22 Section applied to an Illinois deduction, credit, exclusion  
23 from income, allocation or apportionment rule, or other  
24 Illinois tax benefit. Notwithstanding Section 6700(a) of the  
25 Internal Revenue Code, if an activity with respect to which a  
26 penalty imposed under Section 6700(a) of the Internal Revenue  
27 Code, as applied for purposes of this Act, involves a statement  
28 described in Section 6700(a)(2)(A) of the Internal Revenue  
29 Code, as applied for purposes of this Act, the amount of the  
30 penalty imposed under this Section shall be the greater of  
31 \$10,000 or 50% of the gross income received (or to be received)  
32 from any person to whom such statement is furnished that is  
33 required to file a return under Section 502 of this Act.

1 (35 ILCS 5/1405.5 new)

2 Sec. 1405.5. Registration of tax shelters.

3 (a) Federal tax shelter. Any tax shelter organizer required  
4 to register a tax shelter under Section 6111 of the Internal  
5 Revenue Code shall send a duplicate of the federal registration  
6 information to the Department not later than the day on which  
7 registration is required under federal law. Any person required  
8 to register under Section 6111 of the Internal Revenue Code who  
9 receives a tax registration number from the Secretary of the  
10 Treasury shall, within 30 days after request by the Department,  
11 file a statement of that registration number.

12 (b) Additional requirements for listed transactions. In  
13 addition to the requirements of subsection (a), for any  
14 transactions entered into on or after February 28, 2000 that  
15 become listed transactions (as defined under Treasury  
16 Regulations Section 1.6011-4) at any time, those transactions  
17 shall be registered with the Department (in the form and manner  
18 prescribed by the Department) by the later of (i) 60 days after  
19 entering into the transaction, (ii) 60 days after the  
20 transaction becomes a listed transaction, or (iii) December 31,  
21 2004.

22 (c) Tax shelters subject to this Section. The provisions of  
23 this Section apply to any tax shelter herein described that  
24 additionally satisfies any of the following conditions: (1) is  
25 organized in this State; (2) is doing business in this State;  
26 or (3) is deriving income from sources in this State.

27 (d) Tax shelter identification number. Any person required  
28 to file a return under this Act and required to include on the  
29 person's federal tax return a tax shelter identification number  
30 pursuant to Section 6111 of the Internal Revenue Code shall  
31 furnish such number upon filing of the person's Illinois  
32 return.

1 (35 ILCS 5/1405.6 new)

2 Sec. 1405.6. Investor lists.

3 (a) Federal abusive tax shelter. Any person required to  
4 maintain a list under Section 6112 of the Internal Revenue Code  
5 and Treasury Regulations Section 301.6112-1 with respect to a  
6 potentially abusive tax shelter shall furnish such list to the  
7 Department not later than the time such list is required to be  
8 furnished to the Internal Revenue Service under federal income  
9 tax law.

10 The list required under this Section shall include the same  
11 information required with respect to a potentially abusive tax  
12 shelter under Treasury Regulations Section 301.6112-1 and any  
13 other information as the Department may require.

14 (b) Additional requirements for listed transactions. For  
15 transactions entered into on or after February 28, 2000 that  
16 become listed transactions (as defined under Treasury  
17 Regulations Section 1.6011-4) at any time, the list shall be  
18 furnished to the Department by the later of (i) 60 days after  
19 entering into the transaction, (ii) 60 days after the  
20 transaction becomes a listed transaction, or (iii) December 31,  
21 2004.

22 (d) Tax Shelters subject to this Section. The provisions of  
23 this Section apply to any tax shelter herein described that  
24 additionally satisfies any of the following conditions:

25 (1) Organized in this State;

26 (2) Doing Business in this State; or

27 (3) Deriving income from sources in this State.

28 ARTICLE 40

29 Section 40-5. The Illinois Income Tax Act is amended by  
30 changing Section 201 as follows:

31 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

1           Sec. 201. Tax Imposed.

2           (a) In general. A tax measured by net income is hereby  
3 imposed on every individual, corporation, trust and estate for  
4 each taxable year ending after July 31, 1969 on the privilege  
5 of earning or receiving income in or as a resident of this  
6 State. Such tax shall be in addition to all other occupation or  
7 privilege taxes imposed by this State or by any municipal  
8 corporation or political subdivision thereof.

9           (b) Rates. The tax imposed by subsection (a) of this  
10 Section shall be determined as follows, except as adjusted by  
11 subsection (d-1):

12           (1) In the case of an individual, trust or estate, for  
13 taxable years ending prior to July 1, 1989, an amount equal  
14 to 2 1/2% of the taxpayer's net income for the taxable  
15 year.

16           (2) In the case of an individual, trust or estate, for  
17 taxable years beginning prior to July 1, 1989 and ending  
18 after June 30, 1989, an amount equal to the sum of (i) 2  
19 1/2% of the taxpayer's net income for the period prior to  
20 July 1, 1989, as calculated under Section 202.3, and (ii)  
21 3% of the taxpayer's net income for the period after June  
22 30, 1989, as calculated under Section 202.3.

23           (3) In the case of an individual, trust or estate, for  
24 taxable years beginning after June 30, 1989, an amount  
25 equal to 3% of the taxpayer's net income for the taxable  
26 year.

27           (4) (Blank).

28           (5) (Blank).

29           (6) In the case of a corporation, for taxable years  
30 ending prior to July 1, 1989, an amount equal to 4% of the  
31 taxpayer's net income for the taxable year.

32           (7) In the case of a corporation, for taxable years  
33 beginning prior to July 1, 1989 and ending after June 30,  
34 1989, an amount equal to the sum of (i) 4% of the

1 taxpayer's net income for the period prior to July 1, 1989,  
2 as calculated under Section 202.3, and (ii) 4.8% of the  
3 taxpayer's net income for the period after June 30, 1989,  
4 as calculated under Section 202.3.

5 (8) In the case of a corporation, for taxable years  
6 beginning after June 30, 1989, an amount equal to 4.8% of  
7 the taxpayer's net income for the taxable year.

8 (c) Personal Property Tax Replacement Income Tax.  
9 Beginning on July 1, 1979 and thereafter, in addition to such  
10 income tax, there is also hereby imposed the Personal Property  
11 Tax Replacement Income Tax measured by net income on every  
12 corporation (including Subchapter S corporations), partnership  
13 and trust, for each taxable year ending after June 30, 1979.  
14 Such taxes are imposed on the privilege of earning or receiving  
15 income in or as a resident of this State. The Personal Property  
16 Tax Replacement Income Tax shall be in addition to the income  
17 tax imposed by subsections (a) and (b) of this Section and in  
18 addition to all other occupation or privilege taxes imposed by  
19 this State or by any municipal corporation or political  
20 subdivision thereof.

21 (d) Additional Personal Property Tax Replacement Income  
22 Tax Rates. The personal property tax replacement income tax  
23 imposed by this subsection and subsection (c) of this Section  
24 in the case of a corporation, other than a Subchapter S  
25 corporation and except as adjusted by subsection (d-1), shall  
26 be an additional amount equal to 2.85% of such taxpayer's net  
27 income for the taxable year, except that beginning on January  
28 1, 1981, and thereafter, the rate of 2.85% specified in this  
29 subsection shall be reduced to 2.5%, and in the case of a  
30 partnership, trust or a Subchapter S corporation shall be an  
31 additional amount equal to 1.5% of such taxpayer's net income  
32 for the taxable year.

33 (d-1) Rate reduction for certain foreign insurers. In the  
34 case of a foreign insurer, as defined by Section 35A-5 of the



1 Illinois Insurance Code, whose state or country of domicile  
2 imposes on insurers domiciled in Illinois a retaliatory tax  
3 (excluding any insurer whose premiums from reinsurance assumed  
4 are 50% or more of its total insurance premiums as determined  
5 under paragraph (2) of subsection (b) of Section 304, except  
6 that for purposes of this determination premiums from  
7 reinsurance do not include premiums from inter-affiliate  
8 reinsurance arrangements), beginning with taxable years ending  
9 on or after December 31, 1999, the sum of the rates of tax  
10 imposed by subsections (b) and (d) shall be reduced (but not  
11 increased) to the rate at which the total amount of tax imposed  
12 under this Act, net of all credits allowed under this Act,  
13 shall equal (i) the total amount of tax that would be imposed  
14 on the foreign insurer's net income allocable to Illinois for  
15 the taxable year by such foreign insurer's state or country of  
16 domicile if that net income were subject to all income taxes  
17 and taxes measured by net income imposed by such foreign  
18 insurer's state or country of domicile, net of all credits  
19 allowed or (ii) a rate of zero if no such tax is imposed on such  
20 income by the foreign insurer's state of domicile. For the  
21 purposes of this subsection (d-1), an inter-affiliate includes  
22 a mutual insurer under common management.

23 (1) For the purposes of subsection (d-1), in no event  
24 shall the sum of the rates of tax imposed by subsections  
25 (b) and (d) be reduced below the rate at which the sum of:

26 (A) the total amount of tax imposed on such foreign  
27 insurer under this Act for a taxable year, net of all  
28 credits allowed under this Act, plus

29 (B) the privilege tax imposed by Section 409 of the  
30 Illinois Insurance Code, the fire insurance company  
31 tax imposed by Section 12 of the Fire Investigation  
32 Act, and the fire department taxes imposed under  
33 Section 11-10-1 of the Illinois Municipal Code,  
34 equals 1.25% for taxable years ending prior to December 31,

1 2003, or 1.75% for taxable years ending on or after  
2 December 31, 2003, of the net taxable premiums written for  
3 the taxable year, as described by subsection (1) of Section  
4 409 of the Illinois Insurance Code. This paragraph will in  
5 no event increase the rates imposed under subsections (b)  
6 and (d).

7 (2) Any reduction in the rates of tax imposed by this  
8 subsection shall be applied first against the rates imposed  
9 by subsection (b) and only after the tax imposed by  
10 subsection (a) net of all credits allowed under this  
11 Section other than the credit allowed under subsection (i)  
12 has been reduced to zero, against the rates imposed by  
13 subsection (d).

14 This subsection (d-1) is exempt from the provisions of  
15 Section 250.

16 (e) Investment credit. A taxpayer shall be allowed a credit  
17 against the Personal Property Tax Replacement Income Tax for  
18 investment in qualified property.

19 (1) A taxpayer shall be allowed a credit equal to .5%  
20 of the basis of qualified property placed in service during  
21 the taxable year, provided such property is placed in  
22 service on or after July 1, 1984. There shall be allowed an  
23 additional credit equal to .5% of the basis of qualified  
24 property placed in service during the taxable year,  
25 provided such property is placed in service on or after  
26 July 1, 1986, and the taxpayer's base employment within  
27 Illinois has increased by 1% or more over the preceding  
28 year as determined by the taxpayer's employment records  
29 filed with the Illinois Department of Employment Security.  
30 Taxpayers who are new to Illinois shall be deemed to have  
31 met the 1% growth in base employment for the first year in  
32 which they file employment records with the Illinois  
33 Department of Employment Security. The provisions added to  
34 this Section by Public Act 85-1200 (and restored by Public

1 Act 87-895) shall be construed as declaratory of existing  
2 law and not as a new enactment. If, in any year, the  
3 increase in base employment within Illinois over the  
4 preceding year is less than 1%, the additional credit shall  
5 be limited to that percentage times a fraction, the  
6 numerator of which is .5% and the denominator of which is  
7 1%, but shall not exceed .5%. The investment credit shall  
8 not be allowed to the extent that it would reduce a  
9 taxpayer's liability in any tax year below zero, nor may  
10 any credit for qualified property be allowed for any year  
11 other than the year in which the property was placed in  
12 service in Illinois. For tax years ending on or after  
13 December 31, 1987, and on or before December 31, 1988, the  
14 credit shall be allowed for the tax year in which the  
15 property is placed in service, or, if the amount of the  
16 credit exceeds the tax liability for that year, whether it  
17 exceeds the original liability or the liability as later  
18 amended, such excess may be carried forward and applied to  
19 the tax liability of the 5 taxable years following the  
20 excess credit years if the taxpayer (i) makes investments  
21 which cause the creation of a minimum of 2,000 full-time  
22 equivalent jobs in Illinois, (ii) is located in an  
23 enterprise zone established pursuant to the Illinois  
24 Enterprise Zone Act and (iii) is certified by the  
25 Department of Commerce and Community Affairs (now  
26 Department of Commerce and Economic Opportunity) as  
27 complying with the requirements specified in clause (i) and  
28 (ii) by July 1, 1986. The Department of Commerce and  
29 Community Affairs (now Department of Commerce and Economic  
30 Opportunity) shall notify the Department of Revenue of all  
31 such certifications immediately. For tax years ending  
32 after December 31, 1988, the credit shall be allowed for  
33 the tax year in which the property is placed in service,  
34 or, if the amount of the credit exceeds the tax liability

1 for that year, whether it exceeds the original liability or  
2 the liability as later amended, such excess may be carried  
3 forward and applied to the tax liability of the 5 taxable  
4 years following the excess credit years. The credit shall  
5 be applied to the earliest year for which there is a  
6 liability. If there is credit from more than one tax year  
7 that is available to offset a liability, earlier credit  
8 shall be applied first.

9 (2) The term "qualified property" means property  
10 which:

11 (A) is tangible, whether new or used, including  
12 buildings and structural components of buildings and  
13 signs that are real property, but not including land or  
14 improvements to real property that are not a structural  
15 component of a building such as landscaping, sewer  
16 lines, local access roads, fencing, parking lots, and  
17 other appurtenances;

18 (B) is depreciable pursuant to Section 167 of the  
19 Internal Revenue Code, except that "3-year property"  
20 as defined in Section 168(c)(2)(A) of that Code is not  
21 eligible for the credit provided by this subsection  
22 (e);

23 (C) is acquired by purchase as defined in Section  
24 179(d) of the Internal Revenue Code;

25 (D) is used in Illinois by a taxpayer who is  
26 primarily engaged in manufacturing, or in mining coal  
27 or fluorite, or in retailing; and

28 (E) has not previously been used in Illinois in  
29 such a manner and by such a person as would qualify for  
30 the credit provided by this subsection (e) or  
31 subsection (f).

32 (3) For purposes of this subsection (e),  
33 "manufacturing" means the material staging and production  
34 of tangible personal property by procedures commonly

1       regarded as manufacturing, processing, fabrication, or  
2       assembling which changes some existing material into new  
3       shapes, new qualities, or new combinations. For purposes of  
4       this subsection (e) the term "mining" shall have the same  
5       meaning as the term "mining" in Section 613(c) of the  
6       Internal Revenue Code. For purposes of this subsection (e),  
7       the term "retailing" means the sale of tangible personal  
8       property or services rendered in conjunction with the sale  
9       of tangible consumer goods or commodities.

10       (4) The basis of qualified property shall be the basis  
11       used to compute the depreciation deduction for federal  
12       income tax purposes.

13       (5) If the basis of the property for federal income tax  
14       depreciation purposes is increased after it has been placed  
15       in service in Illinois by the taxpayer, the amount of such  
16       increase shall be deemed property placed in service on the  
17       date of such increase in basis.

18       (6) The term "placed in service" shall have the same  
19       meaning as under Section 46 of the Internal Revenue Code.

20       (7) If during any taxable year, any property ceases to  
21       be qualified property in the hands of the taxpayer within  
22       48 months after being placed in service, or the situs of  
23       any qualified property is moved outside Illinois within 48  
24       months after being placed in service, the Personal Property  
25       Tax Replacement Income Tax for such taxable year shall be  
26       increased. Such increase shall be determined by (i)  
27       recomputing the investment credit which would have been  
28       allowed for the year in which credit for such property was  
29       originally allowed by eliminating such property from such  
30       computation and, (ii) subtracting such recomputed credit  
31       from the amount of credit previously allowed. For the  
32       purposes of this paragraph (7), a reduction of the basis of  
33       qualified property resulting from a redetermination of the  
34       purchase price shall be deemed a disposition of qualified

1 property to the extent of such reduction.

2 (8) Unless the investment credit is extended by law,  
3 the basis of qualified property shall not include costs  
4 incurred after December 31, 2003, except for costs incurred  
5 pursuant to a binding contract entered into on or before  
6 December 31, 2003.

7 (9) Each taxable year ending before December 31, 2000,  
8 a partnership may elect to pass through to its partners the  
9 credits to which the partnership is entitled under this  
10 subsection (e) for the taxable year. A partner may use the  
11 credit allocated to him or her under this paragraph only  
12 against the tax imposed in subsections (c) and (d) of this  
13 Section. If the partnership makes that election, those  
14 credits shall be allocated among the partners in the  
15 partnership in accordance with the rules set forth in  
16 Section 704(b) of the Internal Revenue Code, and the rules  
17 promulgated under that Section, and the allocated amount of  
18 the credits shall be allowed to the partners for that  
19 taxable year. The partnership shall make this election on  
20 its Personal Property Tax Replacement Income Tax return for  
21 that taxable year. The election to pass through the credits  
22 shall be irrevocable.

23 For taxable years ending on or after December 31, 2000,  
24 a partner that qualifies its partnership for a subtraction  
25 under subparagraph (I) of paragraph (2) of subsection (d)  
26 of Section 203 or a shareholder that qualifies a Subchapter  
27 S corporation for a subtraction under subparagraph (S) of  
28 paragraph (2) of subsection (b) of Section 203 shall be  
29 allowed a credit under this subsection (e) equal to its  
30 share of the credit earned under this subsection (e) during  
31 the taxable year by the partnership or Subchapter S  
32 corporation, determined in accordance with the  
33 determination of income and distributive share of income  
34 under Sections 702 and 704 and Subchapter S of the Internal

1 Revenue Code. This paragraph is exempt from the provisions  
2 of Section 250.

3 (f) Investment credit; Enterprise Zone.

4 (1) A taxpayer shall be allowed a credit against the  
5 tax imposed by subsections (a) and (b) of this Section for  
6 investment in qualified property which is placed in service  
7 in an Enterprise Zone created pursuant to the Illinois  
8 Enterprise Zone Act. For partners, shareholders of  
9 Subchapter S corporations, and owners of limited liability  
10 companies, if the liability company is treated as a  
11 partnership for purposes of federal and State income  
12 taxation, there shall be allowed a credit under this  
13 subsection (f) to be determined in accordance with the  
14 determination of income and distributive share of income  
15 under Sections 702 and 704 and Subchapter S of the Internal  
16 Revenue Code. The credit shall be .5% of the basis for such  
17 property. The credit shall be available only in the taxable  
18 year in which the property is placed in service in the  
19 Enterprise Zone and shall not be allowed to the extent that  
20 it would reduce a taxpayer's liability for the tax imposed  
21 by subsections (a) and (b) of this Section to below zero.  
22 For tax years ending on or after December 31, 1985, the  
23 credit shall be allowed for the tax year in which the  
24 property is placed in service, or, if the amount of the  
25 credit exceeds the tax liability for that year, whether it  
26 exceeds the original liability or the liability as later  
27 amended, such excess may be carried forward and applied to  
28 the tax liability of the 5 taxable years following the  
29 excess credit year. The credit shall be applied to the  
30 earliest year for which there is a liability. If there is  
31 credit from more than one tax year that is available to  
32 offset a liability, the credit accruing first in time shall  
33 be applied first.

34 (2) The term qualified property means property which:

1 (A) is tangible, whether new or used, including  
2 buildings and structural components of buildings;

3 (B) is depreciable pursuant to Section 167 of the  
4 Internal Revenue Code, except that "3-year property"  
5 as defined in Section 168(c)(2)(A) of that Code is not  
6 eligible for the credit provided by this subsection  
7 (f);

8 (C) is acquired by purchase as defined in Section  
9 179(d) of the Internal Revenue Code;

10 (D) is used in the Enterprise Zone by the taxpayer;  
11 and

12 (E) has not been previously used in Illinois in  
13 such a manner and by such a person as would qualify for  
14 the credit provided by this subsection (f) or  
15 subsection (e).

16 (3) The basis of qualified property shall be the basis  
17 used to compute the depreciation deduction for federal  
18 income tax purposes.

19 (4) If the basis of the property for federal income tax  
20 depreciation purposes is increased after it has been placed  
21 in service in the Enterprise Zone by the taxpayer, the  
22 amount of such increase shall be deemed property placed in  
23 service on the date of such increase in basis.

24 (5) The term "placed in service" shall have the same  
25 meaning as under Section 46 of the Internal Revenue Code.

26 (6) If during any taxable year, any property ceases to  
27 be qualified property in the hands of the taxpayer within  
28 48 months after being placed in service, or the situs of  
29 any qualified property is moved outside the Enterprise Zone  
30 within 48 months after being placed in service, the tax  
31 imposed under subsections (a) and (b) of this Section for  
32 such taxable year shall be increased. Such increase shall  
33 be determined by (i) recomputing the investment credit  
34 which would have been allowed for the year in which credit



1 for such property was originally allowed by eliminating  
2 such property from such computation, and (ii) subtracting  
3 such recomputed credit from the amount of credit previously  
4 allowed. For the purposes of this paragraph (6), a  
5 reduction of the basis of qualified property resulting from  
6 a redetermination of the purchase price shall be deemed a  
7 disposition of qualified property to the extent of such  
8 reduction.

9 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade  
10 Zone or Sub-Zone.

11 (1) A taxpayer conducting a trade or business in an  
12 enterprise zone or a High Impact Business designated by the  
13 Department of Commerce and Economic Opportunity Community  
14 ~~Affairs~~ conducting a trade or business in a federally  
15 designated Foreign Trade Zone or Sub-Zone shall be allowed  
16 a credit against the tax imposed by subsections (a) and (b)  
17 of this Section in the amount of \$500 per eligible employee  
18 hired to work in the zone during the taxable year.

19 (2) To qualify for the credit:

20 (A) the taxpayer must hire 5 or more eligible  
21 employees to work in an enterprise zone or federally  
22 designated Foreign Trade Zone or Sub-Zone during the  
23 taxable year;

24 (B) the taxpayer's total employment within the  
25 enterprise zone or federally designated Foreign Trade  
26 Zone or Sub-Zone must increase by 5 or more full-time  
27 employees beyond the total employed in that zone at the  
28 end of the previous tax year for which a jobs tax  
29 credit under this Section was taken, or beyond the  
30 total employed by the taxpayer as of December 31, 1985,  
31 whichever is later; and

32 (C) the eligible employees must be employed 180  
33 consecutive days in order to be deemed hired for  
34 purposes of this subsection.

1 (3) An "eligible employee" means an employee who is:

2 (A) Certified by the Department of Commerce and  
3 Economic Opportunity ~~Community Affairs~~ as "eligible  
4 for services" pursuant to regulations promulgated in  
5 accordance with Title II of the Job Training  
6 Partnership Act, Training Services for the  
7 Disadvantaged or Title III of the Job Training  
8 Partnership Act, Employment and Training Assistance  
9 for Dislocated Workers Program.

10 (B) Hired after the enterprise zone or federally  
11 designated Foreign Trade Zone or Sub-Zone was  
12 designated or the trade or business was located in that  
13 zone, whichever is later.

14 (C) Employed in the enterprise zone or Foreign  
15 Trade Zone or Sub-Zone. An employee is employed in an  
16 enterprise zone or federally designated Foreign Trade  
17 Zone or Sub-Zone if his services are rendered there or  
18 it is the base of operations for the services  
19 performed.

20 (D) A full-time employee working 30 or more hours  
21 per week.

22 (4) For tax years ending on or after December 31, 1985  
23 and prior to December 31, 1988, the credit shall be allowed  
24 for the tax year in which the eligible employees are hired.  
25 For tax years ending on or after December 31, 1988, the  
26 credit shall be allowed for the tax year immediately  
27 following the tax year in which the eligible employees are  
28 hired. If the amount of the credit exceeds the tax  
29 liability for that year, whether it exceeds the original  
30 liability or the liability as later amended, such excess  
31 may be carried forward and applied to the tax liability of  
32 the 5 taxable years following the excess credit year. The  
33 credit shall be applied to the earliest year for which  
34 there is a liability. If there is credit from more than one

1 tax year that is available to offset a liability, earlier  
2 credit shall be applied first.

3 (5) The Department of Revenue shall promulgate such  
4 rules and regulations as may be deemed necessary to carry  
5 out the purposes of this subsection (g).

6 (6) The credit shall be available for eligible  
7 employees hired on or after January 1, 1986.

8 (h) Investment credit; High Impact Business.

9 (1) Subject to subsections (b) and (b-5) of Section 5.5  
10 of the Illinois Enterprise Zone Act, a taxpayer shall be  
11 allowed a credit against the tax imposed by subsections (a)  
12 and (b) of this Section for investment in qualified  
13 property which is placed in service by a Department of  
14 Commerce and Economic Opportunity ~~Community Affairs~~  
15 designated High Impact Business. The credit shall be .5% of  
16 the basis for such property. The credit shall not be  
17 available (i) until the minimum investments in qualified  
18 property set forth in subdivision (a)(3)(A) of Section 5.5  
19 of the Illinois Enterprise Zone Act have been satisfied or  
20 (ii) until the time authorized in subsection (b-5) of the  
21 Illinois Enterprise Zone Act for entities designated as  
22 High Impact Businesses under subdivisions (a)(3)(B),  
23 (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois  
24 Enterprise Zone Act, and shall not be allowed to the extent  
25 that it would reduce a taxpayer's liability for the tax  
26 imposed by subsections (a) and (b) of this Section to below  
27 zero. The credit applicable to such investments shall be  
28 taken in the taxable year in which such investments have  
29 been completed. The credit for additional investments  
30 beyond the minimum investment by a designated high impact  
31 business authorized under subdivision (a)(3)(A) of Section  
32 5.5 of the Illinois Enterprise Zone Act shall be available  
33 only in the taxable year in which the property is placed in  
34 service and shall not be allowed to the extent that it

1 would reduce a taxpayer's liability for the tax imposed by  
2 subsections (a) and (b) of this Section to below zero. For  
3 tax years ending on or after December 31, 1987, the credit  
4 shall be allowed for the tax year in which the property is  
5 placed in service, or, if the amount of the credit exceeds  
6 the tax liability for that year, whether it exceeds the  
7 original liability or the liability as later amended, such  
8 excess may be carried forward and applied to the tax  
9 liability of the 5 taxable years following the excess  
10 credit year. The credit shall be applied to the earliest  
11 year for which there is a liability. If there is credit  
12 from more than one tax year that is available to offset a  
13 liability, the credit accruing first in time shall be  
14 applied first.

15 Changes made in this subdivision (h) (1) by Public Act  
16 88-670 restore changes made by Public Act 85-1182 and  
17 reflect existing law.

18 (2) The term qualified property means property which:

19 (A) is tangible, whether new or used, including  
20 buildings and structural components of buildings;

21 (B) is depreciable pursuant to Section 167 of the  
22 Internal Revenue Code, except that "3-year property"  
23 as defined in Section 168(c) (2) (A) of that Code is not  
24 eligible for the credit provided by this subsection  
25 (h);

26 (C) is acquired by purchase as defined in Section  
27 179(d) of the Internal Revenue Code; and

28 (D) is not eligible for the Enterprise Zone  
29 Investment Credit provided by subsection (f) of this  
30 Section.

31 (3) The basis of qualified property shall be the basis  
32 used to compute the depreciation deduction for federal  
33 income tax purposes.

34 (4) If the basis of the property for federal income tax

1 depreciation purposes is increased after it has been placed  
2 in service in a federally designated Foreign Trade Zone or  
3 Sub-Zone located in Illinois by the taxpayer, the amount of  
4 such increase shall be deemed property placed in service on  
5 the date of such increase in basis.

6 (5) The term "placed in service" shall have the same  
7 meaning as under Section 46 of the Internal Revenue Code.

8 (6) If during any taxable year ending on or before  
9 December 31, 1996, any property ceases to be qualified  
10 property in the hands of the taxpayer within 48 months  
11 after being placed in service, or the situs of any  
12 qualified property is moved outside Illinois within 48  
13 months after being placed in service, the tax imposed under  
14 subsections (a) and (b) of this Section for such taxable  
15 year shall be increased. Such increase shall be determined  
16 by (i) recomputing the investment credit which would have  
17 been allowed for the year in which credit for such property  
18 was originally allowed by eliminating such property from  
19 such computation, and (ii) subtracting such recomputed  
20 credit from the amount of credit previously allowed. For  
21 the purposes of this paragraph (6), a reduction of the  
22 basis of qualified property resulting from a  
23 redetermination of the purchase price shall be deemed a  
24 disposition of qualified property to the extent of such  
25 reduction.

26 (7) Beginning with tax years ending after December 31,  
27 1996, if a taxpayer qualifies for the credit under this  
28 subsection (h) and thereby is granted a tax abatement and  
29 the taxpayer relocates its entire facility in violation of  
30 the explicit terms and length of the contract under Section  
31 18-183 of the Property Tax Code, the tax imposed under  
32 subsections (a) and (b) of this Section shall be increased  
33 for the taxable year in which the taxpayer relocated its  
34 facility by an amount equal to the amount of credit

1 received by the taxpayer under this subsection (h).

2 (i) Credit for Personal Property Tax Replacement Income  
3 Tax. For tax years ending prior to December 31, 2003, a credit  
4 shall be allowed against the tax imposed by subsections (a) and  
5 (b) of this Section for the tax imposed by subsections (c) and  
6 (d) of this Section. This credit shall be computed by  
7 multiplying the tax imposed by subsections (c) and (d) of this  
8 Section by a fraction, the numerator of which is base income  
9 allocable to Illinois and the denominator of which is Illinois  
10 base income, and further multiplying the product by the tax  
11 rate imposed by subsections (a) and (b) of this Section.

12 Any credit earned on or after December 31, 1986 under this  
13 subsection which is unused in the year the credit is computed  
14 because it exceeds the tax liability imposed by subsections (a)  
15 and (b) for that year (whether it exceeds the original  
16 liability or the liability as later amended) may be carried  
17 forward and applied to the tax liability imposed by subsections  
18 (a) and (b) of the 5 taxable years following the excess credit  
19 year, provided that no credit may be carried forward to any  
20 year ending on or after December 31, 2003. This credit shall be  
21 applied first to the earliest year for which there is a  
22 liability. If there is a credit under this subsection from more  
23 than one tax year that is available to offset a liability the  
24 earliest credit arising under this subsection shall be applied  
25 first.

26 If, during any taxable year ending on or after December 31,  
27 1986, the tax imposed by subsections (c) and (d) of this  
28 Section for which a taxpayer has claimed a credit under this  
29 subsection (i) is reduced, the amount of credit for such tax  
30 shall also be reduced. Such reduction shall be determined by  
31 recomputing the credit to take into account the reduced tax  
32 imposed by subsections (c) and (d). If any portion of the  
33 reduced amount of credit has been carried to a different  
34 taxable year, an amended return shall be filed for such taxable

1 year to reduce the amount of credit claimed.

2 (j) Training expense credit. Beginning with tax years  
3 ending on or after December 31, 1986 and prior to December 31,  
4 2003, a taxpayer shall be allowed a credit against the tax  
5 imposed by subsections (a) and (b) under this Section for all  
6 amounts paid or accrued, on behalf of all persons employed by  
7 the taxpayer in Illinois or Illinois residents employed outside  
8 of Illinois by a taxpayer, for educational or vocational  
9 training in semi-technical or technical fields or semi-skilled  
10 or skilled fields, which were deducted from gross income in the  
11 computation of taxable income. The credit against the tax  
12 imposed by subsections (a) and (b) shall be 1.6% of such  
13 training expenses. For partners, shareholders of subchapter S  
14 corporations, and owners of limited liability companies, if the  
15 liability company is treated as a partnership for purposes of  
16 federal and State income taxation, there shall be allowed a  
17 credit under this subsection (j) to be determined in accordance  
18 with the determination of income and distributive share of  
19 income under Sections 702 and 704 and subchapter S of the  
20 Internal Revenue Code.

21 Any credit allowed under this subsection which is unused in  
22 the year the credit is earned may be carried forward to each of  
23 the 5 taxable years following the year for which the credit is  
24 first computed until it is used. This credit shall be applied  
25 first to the earliest year for which there is a liability. If  
26 there is a credit under this subsection from more than one tax  
27 year that is available to offset a liability the earliest  
28 credit arising under this subsection shall be applied first. No  
29 carryforward credit may be claimed in any tax year ending on or  
30 after December 31, 2003.

31 (k) Research and development credit.

32 For tax years ending after July 1, 1990 and prior to  
33 December 31, 2003, and beginning again for tax years ending on  
34 or after December 31, 2004, a taxpayer shall be allowed a

1 credit against the tax imposed by subsections (a) and (b) of  
2 this Section for increasing research activities in this State.  
3 The credit allowed against the tax imposed by subsections (a)  
4 and (b) shall be equal to 6 1/2% of the qualifying expenditures  
5 for increasing research activities in this State. For partners,  
6 shareholders of subchapter S corporations, and owners of  
7 limited liability companies, if the liability company is  
8 treated as a partnership for purposes of federal and State  
9 income taxation, there shall be allowed a credit under this  
10 subsection to be determined in accordance with the  
11 determination of income and distributive share of income under  
12 Sections 702 and 704 and subchapter S of the Internal Revenue  
13 Code.

14 For purposes of this subsection, "qualifying expenditures"  
15 means the qualifying expenditures as defined for the federal  
16 credit for increasing research activities which would be  
17 allowable under Section 41 of the Internal Revenue Code and  
18 which are conducted in this State, "qualifying expenditures for  
19 increasing research activities in this State" means the excess  
20 of qualifying expenditures for the taxable year in which  
21 incurred over qualifying expenditures for the base period,  
22 "qualifying expenditures for the base period" means the average  
23 of the qualifying expenditures for each year in the base  
24 period, and "base period" means the 3 taxable years immediately  
25 preceding the taxable year for which the determination is being  
26 made.

27 Any credit in excess of the tax liability for the taxable  
28 year may be carried forward. A taxpayer may elect to have the  
29 unused credit shown on its final completed return carried over  
30 as a credit against the tax liability for the following 5  
31 taxable years or until it has been fully used, whichever occurs  
32 first; provided that no credit earned in a tax year ending  
33 prior to December 31, 2003 may be carried forward to any year  
34 ending on or after December 31, 2003. ~~provided that no credit~~



1 ~~may be carried forward to any year ending on or after December~~  
2 ~~31, 2003.~~

3 If an unused credit is carried forward to a given year from  
4 2 or more earlier years, that credit arising in the earliest  
5 year will be applied first against the tax liability for the  
6 given year. If a tax liability for the given year still  
7 remains, the credit from the next earliest year will then be  
8 applied, and so on, until all credits have been used or no tax  
9 liability for the given year remains. Any remaining unused  
10 credit or credits then will be carried forward to the next  
11 following year in which a tax liability is incurred, except  
12 that no credit can be carried forward to a year which is more  
13 than 5 years after the year in which the expense for which the  
14 credit is given was incurred.

15 No inference shall be drawn from this amendatory Act of the  
16 91st General Assembly in construing this Section for taxable  
17 years beginning before January 1, 1999.

18 (1) Environmental Remediation Tax Credit.

19 (i) For tax years ending after December 31, 1997 and on  
20 or before December 31, 2001, a taxpayer shall be allowed a  
21 credit against the tax imposed by subsections (a) and (b)  
22 of this Section for certain amounts paid for unreimbursed  
23 eligible remediation costs, as specified in this  
24 subsection. For purposes of this Section, "unreimbursed  
25 eligible remediation costs" means costs approved by the  
26 Illinois Environmental Protection Agency ("Agency") under  
27 Section 58.14 of the Environmental Protection Act that were  
28 paid in performing environmental remediation at a site for  
29 which a No Further Remediation Letter was issued by the  
30 Agency and recorded under Section 58.10 of the  
31 Environmental Protection Act. The credit must be claimed  
32 for the taxable year in which Agency approval of the  
33 eligible remediation costs is granted. The credit is not  
34 available to any taxpayer if the taxpayer or any related

1 party caused or contributed to, in any material respect, a  
2 release of regulated substances on, in, or under the site  
3 that was identified and addressed by the remedial action  
4 pursuant to the Site Remediation Program of the  
5 Environmental Protection Act. After the Pollution Control  
6 Board rules are adopted pursuant to the Illinois  
7 Administrative Procedure Act for the administration and  
8 enforcement of Section 58.9 of the Environmental  
9 Protection Act, determinations as to credit availability  
10 for purposes of this Section shall be made consistent with  
11 those rules. For purposes of this Section, "taxpayer"  
12 includes a person whose tax attributes the taxpayer has  
13 succeeded to under Section 381 of the Internal Revenue Code  
14 and "related party" includes the persons disallowed a  
15 deduction for losses by paragraphs (b), (c), and (f)(1) of  
16 Section 267 of the Internal Revenue Code by virtue of being  
17 a related taxpayer, as well as any of its partners. The  
18 credit allowed against the tax imposed by subsections (a)  
19 and (b) shall be equal to 25% of the unreimbursed eligible  
20 remediation costs in excess of \$100,000 per site, except  
21 that the \$100,000 threshold shall not apply to any site  
22 contained in an enterprise zone as determined by the  
23 Department of Commerce and Community Affairs (now  
24 Department of Commerce and Economic Opportunity). The  
25 total credit allowed shall not exceed \$40,000 per year with  
26 a maximum total of \$150,000 per site. For partners and  
27 shareholders of subchapter S corporations, there shall be  
28 allowed a credit under this subsection to be determined in  
29 accordance with the determination of income and  
30 distributive share of income under Sections 702 and 704 and  
31 subchapter S of the Internal Revenue Code.

32 (ii) A credit allowed under this subsection that is  
33 unused in the year the credit is earned may be carried  
34 forward to each of the 5 taxable years following the year

1 for which the credit is first earned until it is used. The  
2 term "unused credit" does not include any amounts of  
3 unreimbursed eligible remediation costs in excess of the  
4 maximum credit per site authorized under paragraph (i).  
5 This credit shall be applied first to the earliest year for  
6 which there is a liability. If there is a credit under this  
7 subsection from more than one tax year that is available to  
8 offset a liability, the earliest credit arising under this  
9 subsection shall be applied first. A credit allowed under  
10 this subsection may be sold to a buyer as part of a sale of  
11 all or part of the remediation site for which the credit  
12 was granted. The purchaser of a remediation site and the  
13 tax credit shall succeed to the unused credit and remaining  
14 carry-forward period of the seller. To perfect the  
15 transfer, the assignor shall record the transfer in the  
16 chain of title for the site and provide written notice to  
17 the Director of the Illinois Department of Revenue of the  
18 assignor's intent to sell the remediation site and the  
19 amount of the tax credit to be transferred as a portion of  
20 the sale. In no event may a credit be transferred to any  
21 taxpayer if the taxpayer or a related party would not be  
22 eligible under the provisions of subsection (i).

23 (iii) For purposes of this Section, the term "site"  
24 shall have the same meaning as under Section 58.2 of the  
25 Environmental Protection Act.

26 (m) Education expense credit. Beginning with tax years  
27 ending after December 31, 1999, a taxpayer who is the custodian  
28 of one or more qualifying pupils shall be allowed a credit  
29 against the tax imposed by subsections (a) and (b) of this  
30 Section for qualified education expenses incurred on behalf of  
31 the qualifying pupils. The credit shall be equal to 25% of  
32 qualified education expenses, but in no event may the total  
33 credit under this subsection claimed by a family that is the  
34 custodian of qualifying pupils exceed \$500. In no event shall a

1 credit under this subsection reduce the taxpayer's liability  
2 under this Act to less than zero. This subsection is exempt  
3 from the provisions of Section 250 of this Act.

4 For purposes of this subsection:

5 "Qualifying pupils" means individuals who (i) are  
6 residents of the State of Illinois, (ii) are under the age of  
7 21 at the close of the school year for which a credit is  
8 sought, and (iii) during the school year for which a credit is  
9 sought were full-time pupils enrolled in a kindergarten through  
10 twelfth grade education program at any school, as defined in  
11 this subsection.

12 "Qualified education expense" means the amount incurred on  
13 behalf of a qualifying pupil in excess of \$250 for tuition,  
14 book fees, and lab fees at the school in which the pupil is  
15 enrolled during the regular school year.

16 "School" means any public or nonpublic elementary or  
17 secondary school in Illinois that is in compliance with Title  
18 VI of the Civil Rights Act of 1964 and attendance at which  
19 satisfies the requirements of Section 26-1 of the School Code,  
20 except that nothing shall be construed to require a child to  
21 attend any particular public or nonpublic school to qualify for  
22 the credit under this Section.

23 "Custodian" means, with respect to qualifying pupils, an  
24 Illinois resident who is a parent, the parents, a legal  
25 guardian, or the legal guardians of the qualifying pupils.

26 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-651,  
27 eff. 7-11-02; 92-846, eff. 8-23-02; 93-29, eff. 6-20-03;  
28 revised 12-6-03.)

29 ARTICLE 45

30 Section 45-5. The Environmental Protection Act is amended  
31 by changing Sections 12.5 as follows:

1 (415 ILCS 5/12.5)

2 Sec. 12.5. NPDES discharge fees; sludge permit fees.

3 (a) Beginning July 1, 2003, the Agency shall assess and  
4 collect annual fees (i) in the amounts set forth in subsection  
5 (e) for all discharges that require an NPDES permit under  
6 subsection (f) of Section 12, from each person holding an NPDES  
7 permit authorizing those discharges (including a person who  
8 continues to discharge under an expired permit pending  
9 renewal), and (ii) in the amounts set forth in subsection (f)  
10 of this Section for all activities that require a permit under  
11 subsection (b) of Section 12, from each person holding a  
12 domestic sewage sludge generator or user permit.

13 Each person subject to this Section must remit the  
14 applicable annual fee to the Agency in accordance with the  
15 requirements set forth in this Section and any rules adopted  
16 pursuant to this Section.

17 (b) Within 30 days after the effective date of this  
18 Section, and ~~by May 31 of~~ each year thereafter, the Agency  
19 shall send a fee notice by mail to each existing permittee  
20 subject to a fee under this Section at his or her address of  
21 record. The notice shall state the amount of the applicable  
22 annual fee and the date by which payment is required.

23 Except as provided in subsection (c) with respect to  
24 initial fees under new permits and certain modifications of  
25 existing permits, fees payable under this Section ~~for the 12~~  
26 ~~months beginning July 1, 2003~~ are due by the date specified in  
27 the fee notice, which shall be no less than 30 days after the  
28 date the fee notice is mailed by the Agency, ~~and fees payable~~  
29 ~~under this Section for subsequent years shall be due on July 1~~  
30 ~~or as otherwise required in any rules that may be adopted~~  
31 ~~pursuant to this Section.~~

32 (c) The initial annual fee for discharges under a new  
33 individual NPDES permit or for activity under a new individual  
34 sludge generator or sludge user permit must be remitted to the

1 Agency prior to the issuance of the permit. The Agency shall  
2 provide notice of the amount of the fee to the applicant during  
3 its review of the application. In the case of a new individual  
4 NPDES or sludge permit issued during the months of January  
5 through June, the Agency may prorate the initial annual fee  
6 payable under this Section.

7 The initial annual fee for discharges or other activity  
8 under a general NPDES permit must be remitted to the Agency as  
9 part of the application for coverage under that general permit.

10 If a requested modification to an existing NPDES permit  
11 causes a change in the applicable fee categories under  
12 subsection (e) that results in an increase in the required fee,  
13 the permittee must pay to the Agency the amount of the  
14 increase, prorated for the number of months remaining before  
15 the next July 1, before the modification is granted.

16 (d) Failure to submit the fee required under this Section  
17 by the due date constitutes a violation of this Section. Late  
18 payments shall incur an interest penalty, calculated at the  
19 rate in effect from time to time for tax delinquencies under  
20 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
21 from the date the fee is due until the date the fee payment is  
22 received by the Agency.

23 (e) The annual fees applicable to discharges under NPDES  
24 permits are as follows:

25 (1) For NPDES permits for publicly owned treatment  
26 works, other facilities for which the wastewater being  
27 treated and discharged is primarily domestic sewage, and  
28 wastewater discharges from the operation of public water  
29 supply treatment facilities, the fee is:

30 (i) \$1,500 for the 12 months beginning July 1, 2003  
31 and \$500 for each subsequent year, for facilities with  
32 a Design Average Flow rate of less than 100,000 gallons  
33 per day;

34 (ii) \$5,000 for the 12 months beginning July 1,

1           2003 and \$2,500 for each subsequent year, for  
2 facilities with a Design Average Flow rate of at least  
3 100,000 gallons per day but less than 500,000 gallons  
4 per day;

5           (iii) \$7,500 for facilities with a Design Average  
6 Flow rate of at least 500,000 gallons per day but less  
7 than 1,000,000 gallons per day;

8           (iv) \$15,000 for facilities with a Design Average  
9 Flow rate of at least 1,000,000 gallons per day but  
10 less than 5,000,000 gallons per day;

11           (v) \$30,000 for facilities with a Design Average  
12 Flow rate of at least 5,000,000 gallons per day but  
13 less than 10,000,000 gallons per day; and

14           (vi) \$50,000 for facilities with a Design Average  
15 Flow rate of 10,000,000 gallons per day or more.

16           (2) For NPDES permits for treatment works or sewer  
17 collection systems that include combined sewer overflow  
18 outfalls, the fee is:

19           (i) \$1,000 for systems serving a tributary  
20 population of 10,000 or less;

21           (ii) \$5,000 for systems serving a tributary  
22 population that is greater than 10,000 but not more  
23 than 25,000; and

24           (iii) \$20,000 for systems serving a tributary  
25 population that is greater than 25,000.

26           The fee amounts in this subdivision (e)(2) are in  
27 addition to the fees stated in subdivision (e)(1) when the  
28 combined sewer overflow outfall is contained within a  
29 permit subject to subsection (e)(1) fees.

30           (3) For NPDES permits for mines producing coal, the fee  
31 is \$5,000.

32           (4) For NPDES permits for mines other than mines  
33 producing coal, the fee is \$5,000.

34           (5) For NPDES permits for industrial activity where

1 toxic substances are not regulated, other than permits  
2 covered under subdivision (e) (3) or (e) (4), the fee is:

3 (i) \$1,000 for a facility with a Design Average  
4 Flow rate that is not more than 10,000 gallons per day;

5 (ii) \$2,500 for a facility with a Design Average  
6 Flow rate that is more than 10,000 gallons per day but  
7 not more than 100,000 gallons per day; and

8 (iii) \$10,000 for a facility with a Design Average  
9 Flow rate that is more than 100,000 gallons per day.

10 (6) For NPDES permits for industrial activity where  
11 toxic substances are regulated, other than permits covered  
12 under subdivision (e) (3) or (e) (4), the fee is:

13 (i) \$15,000 for a facility with a Design Average  
14 Flow rate that is not more than 250,000 gallons per  
15 day; and

16 (ii) \$20,000 for a facility with a Design Average  
17 Flow rate that is more than 250,000 gallons per day.

18 (7) For NPDES permits for industrial activity  
19 classified by USEPA as a major discharge, other than  
20 permits covered under subdivision (e) (3) or (e) (4), the fee  
21 is:

22 (i) \$30,000 for a facility where toxic substances  
23 are not regulated; and

24 (ii) \$50,000 for a facility where toxic substances  
25 are regulated.

26 (8) For NPDES permits for municipal separate storm  
27 sewer systems, the fee is \$1,000.

28 (9) For NPDES permits for construction site or  
29 industrial storm water, the fee is \$500.

30 (f) The annual fee for activities under a permit that  
31 authorizes applying sludge on land is \$2,500 for a sludge  
32 generator permit and \$5,000 for a sludge user permit.

33 (g) More than one of the annual fees specified in  
34 subsections (e) and (f) may be applicable to a permit holder.



1 These fees are in addition to any other fees required under  
2 this Act.

3 (h) The fees imposed under this Section do not apply to the  
4 State or any department or agency of the State, nor to any  
5 school district, or to any private sewage disposal system as  
6 defined in the Private Sewage Disposal Licensing Act (225 ILCS  
7 225/).

8 (i) The Agency may adopt rules to administer the fee  
9 program established in this Section. The Agency may include  
10 provisions pertaining to invoices, notice of late payment, and  
11 disputes concerning the amount or timeliness of payment. The  
12 Agency may set forth procedures and criteria for the acceptance  
13 of payments. The absence of such rules does not affect the duty  
14 of the Agency to immediately begin the assessment and  
15 collection of fees under this Section.

16 (j) All fees and interest penalties collected by the Agency  
17 under this Section shall be deposited into the Illinois Clean  
18 Water Fund, which is hereby created as a special fund in the  
19 State treasury. Gifts, supplemental environmental project  
20 funds, and grants may be deposited into the Fund. Investment  
21 earnings on moneys held in the Fund shall be credited to the  
22 Fund.

23 Subject to appropriation, the moneys in the Fund shall be  
24 used by the Agency to carry out the Agency's clean water  
25 activities.

26 (k) Except as provided in subsection (l), fees ~~Fees~~ paid to  
27 the Agency under this Section are not refundable.

28 (l) The Agency may refund the difference between (a) the  
29 amount paid by any person under subsection (e)(1)(i) or  
30 (e)(1)(ii) of this Section for the 12 months beginning July 1,  
31 2004 and (b) the amount due under subsection (e)(1)(i) or  
32 (e)(1)(ii) as established by this amendatory Act of the 93rd  
33 General Assembly.

34 (Source: P.A. 93-32, eff. 7-1-03.)

1

## ARTICLE 50

2

Section 50-5. The Film Production Services Tax Credit Act  
3 is amended by changing Section 90 as follows:

4

(35 ILCS 15/90)

5

(Section scheduled to be repealed on January 1, 2005)

6

Sec. 90. Repeal. This Act is repealed 2 years ~~1-year~~ after  
7 its effective date.

8

(Source: P.A. 93-543, eff. 1-1-04.)

9

## ARTICLE 99

10

Section 99-99. Effective date. This Act takes effect upon  
11 becoming law.".