



Rep. John E. Bradley

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1 AMENDMENT TO SENATE BILL 397

2 AMENDMENT NO. _____. Amend Senate Bill 397, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Article 1. Findings

6 Section 1-1. Legislative findings.

7 (1) The House of Representatives adopted House Resolution
8 110 on March 8, 2011, setting forth the estimates of general
9 funds the House expects to be available during State fiscal
10 year 2012.

11 (2) In determining the estimates of general funds expected
12 to be available during State fiscal year 2012, the House
13 Revenue & Finance Committee assumed that the State would not
14 collect approximately \$600,000,000 of income tax revenues due
15 to the allowance of special bonus depreciation rules approved
16 by the federal government.

1 (3) The House of Representatives adopted House Resolution
2 158 on March 30, 2011, which provides that if the actual amount
3 of funds from State sources that become available during State
4 fiscal year 2012 exceeds the House's estimates set forth in
5 House Resolution 110, then that excess shall first be used to
6 reduce the backlog of unpaid State obligations to the extent
7 authorized by law.

8 (4) These concepts are prudent and should be continued for
9 State fiscal year 2013 and beyond.

10 (5) As the House Revenue & Finance Committee develops the
11 estimates of general funds expected to be available during
12 State fiscal year 2013, an estimated \$250,000,000 of income tax
13 revenues in excess of the State fiscal year 2012 budgeted
14 amount will become available due to the phasing out of the
15 allowance of special bonus depreciation rules approved by the
16 federal government.

17 (6) Therefore, the General Assembly finds that a tax
18 incentive package that does not exceed \$250,000,000 in State
19 fiscal year 2013 can be approved without any negative impact to
20 the State budget in State fiscal years 2012 and 2013 while
21 providing tax relief to a large number of Illinois individual
22 and business taxpayers.

23 Article 5. Illinois Independent Tax Tribunal Act

24 Section 5-1. Short title. This Article may be cited as the

1 Illinois Independent Tax Tribunal Act.

2 Section 5-5. Independent Tax Tribunal Board; Department of
3 Revenue.

4 (a) On and after July 1, 2013, the Department of Revenue,
5 or any successor agency, shall no longer hear and act upon any
6 protests of notices of tax liability or deficiencies for all
7 taxes administered by the Department of Revenue.

8 (b) Beginning July 1, 2013, an Independent Tax Tribunal
9 Board shall assume, exercise, and administer all rights,
10 powers, duties, and responsibilities pertaining to any
11 protests of notices of tax liability or deficiencies for all
12 taxes administered by the Department of Revenue. The
13 Independent Tax Tribunal Board shall be created by law and no
14 State agency shall assume the functions of the Board.

15 Article 10. Live Theater Production Tax Credit Act

16 Section 10-1. Short title. This Article may be cited as the
17 Live Theater Production Tax Credit Act. References in this
18 Article to "this Act" mean this Article.

19 Section 10-5. Purpose. The Illinois economy depends
20 heavily on the commercial for-profit live theater industry and
21 the pre-Broadway and long-run shows that are presented in
22 Illinois. As a result of intense competition from other

1 prominent theater cities in the United States and abroad in
2 attracting pre-Broadway and long-run shows, Illinois must move
3 aggressively with new business development investment tools so
4 that Illinois is more competitive in site location decision
5 making for show producers. In an increasingly global economy,
6 Illinois' long term development will benefit from the rational,
7 strategic use of State resources in support of pre-Broadway
8 live theater and long run show development and growth. It is
9 the purpose of this Act to preserve and expand the existing
10 work force used in live theater and enhance the marketing of
11 the presentation of live theater in Illinois. It shall be the
12 policy of this State to promote and encourage the training and
13 hiring of Illinois residents who represent the diversity of the
14 Illinois population through the creation and implementation of
15 training, education, and recruitment programs organized in
16 cooperation with Illinois colleges and universities, labor
17 organizations, and the commercial for-profit live theater
18 industry.

19 Section 10-10. Definitions. As used in this Act:

20 "Accredited theater production" means a for-profit live
21 stage presentation in a qualified production facility, as
22 defined in this Section, that is either (i) a pre-Broadway
23 production or (ii) a long-run production for which the
24 aggregate Illinois labor and marketing expenditures exceed
25 \$100,000.

1 "Pre-Broadway production" means a live stage production
2 that, in its original or adaptive version, is performed in a
3 qualified production facility having a presentation scheduled
4 for Broadway's Theater District in New York City within 12
5 months after its Illinois presentation.

6 "Long-run production" means a live stage production that is
7 performed in a qualified production facility for longer than 8
8 weeks, with at least 6 performances per week, and includes a
9 production that spans the end of one tax year and the
10 commencement of a new tax year that, in combination, meets the
11 criteria set forth in this definition making it a long-run
12 production eligible for a theater tax credit award in each tax
13 year or portion thereof.

14 "Accredited theater production certificate" means a
15 certificate issued by the Department certifying that the
16 production is an accredited theater production that meets the
17 guidelines of this Act.

18 "Applicant" means a taxpayer that is a theater producer,
19 owner, licensee, operator, or presenter that is presenting or
20 has presented a live stage presentation located within the
21 State of Illinois who:

22 (1) owns or licenses the theatrical rights of the stage
23 presentation for the Illinois production period; or

24 (2) has contracted or will contract directly with the
25 owner or licensee of the theatrical rights or a person
26 acting on behalf of the owner or licensee to provide live

1 performances of the production.

2 An applicant that directly or indirectly owns, controls, or
3 operates multiple qualified production facilities shall be
4 presumed to be and considered for the purposes of this Act to
5 be a single applicant; provided, however, that as to each of
6 the applicant's qualified production facilities, the applicant
7 shall be eligible to separately and contemporaneously (i) apply
8 for and obtain accredited theater production certificates,
9 (ii) stage accredited theater productions, and (iii) apply for
10 and receive a tax credit award certificate for each of
11 applicant's accredited theater productions performed at each
12 of the applicant's qualified production facilities.

13 "Department" means the Department of Commerce and Economic
14 Opportunity.

15 "Director" means the Director of the Department.

16 "Illinois labor expenditure" means gross salary or wages
17 including, but not limited to, taxes, benefits, and any other
18 consideration incurred or paid to non-talent employees of the
19 applicant for services rendered to and on behalf of the
20 accredited theater production. To qualify as an Illinois labor
21 expenditure, the expenditure must be:

22 (1) incurred or paid by the applicant on or after the
23 effective date of the Act for services related to any
24 portion of an accredited theater production from its
25 pre-production stages, including, but not limited to, the
26 writing of the script, casting, hiring of service

1 providers, purchases from vendors, marketing, advertising,
2 public relations, load in, rehearsals, performances, other
3 accredited theater production related activities, and load
4 out;

5 (2) directly attributable to the accredited theater
6 production;

7 (3) limited to the first \$100,000 of wages incurred or
8 paid to each employee of an accredited theater production
9 in each tax year;

10 (4) included in the federal income tax basis of the
11 property;

12 (5) paid in the tax year for which the applicant is
13 claiming the tax credit award, or no later than 60 days
14 after the end of the tax year;

15 (6) paid to persons residing in Illinois at the time
16 payments were made; and

17 (7) reasonable in the circumstances.

18 "Illinois production spending" means any and all expenses
19 directly or indirectly incurred relating to an accredited
20 theater production presented in any qualified production
21 facility of the applicant, including, but not limited to,
22 expenditures for:

23 (1) national marketing, public relations, and the
24 creation and placement of print, electronic, television,
25 billboard, and other forms of advertising; and

26 (2) the construction and fabrication of scenic

1 materials and elements; provided, however, that the
2 maximum amount of expenditures attributable to the
3 construction and fabrication of scenic materials and
4 elements eligible for a tax credit award shall not exceed
5 \$500,000 per applicant per production in any single tax
6 year.

7 "Qualified production facility" means a facility located
8 in the State in which live theatrical productions are, or are
9 intended to be, exclusively presented that contains at least
10 one stage, a seating capacity of 1,200 or more seats, and
11 dressing rooms, storage areas, and other ancillary amenities
12 necessary for the accredited theater production.

13 "Tax credit award" means the issuance to a taxpayer by the
14 Department of a tax credit award in conformance with Sections
15 10-40 and 10-45 of this Act.

16 "Tax year" means a calendar year for the period January 1
17 to and including December 31.

18 Section 10-15. Powers of the Department. The Department, in
19 addition to those powers granted under the Civil Administrative
20 Code of Illinois, is granted and has all the powers necessary
21 or convenient to carry out and effectuate the purposes and
22 provisions of this Act, including, but not limited to, the
23 power and authority to:

24 (1) adopt rules deemed necessary and appropriate for
25 the administration of the Tax Credit Award program;

1 establish forms for applications, notifications,
2 contracts, or any other agreements; and accept
3 applications at any time during the year;

4 (2) assist applicants pursuant to the provisions of
5 this Act to promote, foster, and support live theater
6 development and production and its related job creation or
7 retention within the State;

8 (3) gather information and conduct inquiries, in the
9 manner and by the methods set forth in this Act, required
10 for the Department to comply with Section 10-40 and,
11 without limitation, obtain information with respect to
12 applicants for the purpose of making any designations or
13 certifications necessary or desirable to assist the
14 Department with any recommendation or guidance in the
15 furtherance of the purposes of this Act and relating to
16 applicants' participation in training, education, and
17 recruitment programs that are organized in cooperation
18 with Illinois colleges and universities or labor
19 organizations designed to promote and encourage the
20 training and hiring of Illinois residents who represent the
21 diversity of the Illinois population;

22 (4) provide for sufficient personnel to permit
23 administrative, staffing, operating, and related support
24 required to adequately discharge its duties and
25 responsibilities described in this Act from funds as may be
26 appropriated by the General Assembly for the

1 administration of this Act; and

2 (5) require that the applicant at all times keep proper
3 books and records of accounts relating to the tax credit
4 award, in accordance with generally accepted accounting
5 principles consistently applied, and make, upon reasonable
6 written request by the Department, those books and records
7 available for reasonable Department inspection and audit
8 during the applicant's normal business hours. Any
9 documents or data made available to or received from the
10 applicant by any agent, employee, officer, or service
11 provider to the Department shall be deemed confidential and
12 shall not constitute public records to the extent that the
13 documents or data consist of commercial or financial
14 information regarding the operation by the applicant of any
15 theater or any accredited theater production, or any
16 recipient of any tax credit award under this Act.

17 Section 10-20. Tax credit award. Subject to the conditions
18 set forth in this Act, an applicant is entitled to a tax credit
19 award as approved by the Department for qualifying Illinois
20 labor expenditures and Illinois production spending for each
21 tax year in which the applicant is awarded an accredited
22 theater production certificate issued by the Department. The
23 amount of tax credits awarded pursuant to this Act shall not
24 exceed \$2,000,000 in any fiscal year. Credits shall be awarded
25 on a first-come, first-served basis. Notwithstanding the

1 foregoing, if the amount of credits applied for in any fiscal
2 year exceeds the amount authorized to be awarded under this
3 Section, the excess credit amount shall be awarded in the next
4 fiscal year in which credits remain available for award and
5 shall be treated as having been applied for on the first day of
6 that fiscal year.

7 Section 10-25. Application for certification of accredited
8 theater production. Any applicant proposing an accredited
9 theater production located or planned to be located in Illinois
10 may request an accredited theater production certificate by
11 application to the Department.

12 Section 10-30. Review of application for accredited
13 theater production certificate.

14 (a) The Department shall issue an accredited theater
15 production certificate to an applicant if it finds that by a
16 preponderance the following conditions exist:

17 (1) the applicant intends to make the expenditure in
18 the State required for certification of the accredited
19 theater production;

20 (2) the applicant's accredited theater production is
21 economically sound and will benefit the people of the State
22 of Illinois by increasing opportunities for employment and
23 will strengthen the economy of Illinois;

24 (3) the following requirements related to the

1 implementation of a diversity plan have been met: (i) the
2 applicant has filed with the Department a diversity plan
3 outlining specific goals for hiring Illinois labor
4 expenditure eligible minority persons and females, as
5 defined in the Business Enterprise for Minorities,
6 Females, and Persons with Disabilities Act, and for using
7 vendors receiving certification under the Business
8 Enterprise for Minorities, Females, and Persons with
9 Disabilities Act; (ii) the Department has approved the plan
10 as meeting the requirements established by the Department
11 and verified that the applicant has met or made good faith
12 efforts in achieving those goals; and (iii) the Department
13 has adopted any rules that are necessary to ensure
14 compliance with the provisions set forth in this paragraph
15 and necessary to require that the applicant's plan reflects
16 the diversity of the population of this State;

17 (4) the applicant's accredited theater production
18 application indicates whether the applicant intends to
19 participate in training, education, and recruitment
20 programs that are organized in cooperation with Illinois
21 colleges and universities, labor organizations, and the
22 holders of accredited theater production certificates and
23 are designed to promote and encourage the training and
24 hiring of Illinois residents who represent the diversity of
25 Illinois;

26 (5) if not for the tax credit award, the applicant's

1 accredited theater production would not occur in Illinois,
2 which may be demonstrated by any means, including, but not
3 limited to, evidence that: (i) the applicant, presenter,
4 owner, or licensee of the production rights has other state
5 or international location options at which to present the
6 production and could reasonably and efficiently locate
7 outside of the State, (ii) at least one other state or
8 nation could be considered for the production, (iii) the
9 receipt of the tax award credit is a major factor in the
10 decision of the applicant, presenter, production owner or
11 licensee as to where the production will be presented and
12 that without the tax credit award the applicant likely
13 would not create or retain jobs in Illinois, or (iv)
14 receipt of the tax credit award is essential to the
15 applicant's decision to create or retain new jobs in the
16 State; and

17 (6) the tax credit award will result in an overall
18 positive impact to the State, as determined by the
19 Department using the best available data.

20 (b) If any of the provisions in this Section conflict with
21 any existing collective bargaining agreements, the terms and
22 conditions of those collective bargaining agreements shall
23 control.

24 (c) The Department shall act expeditiously regarding
25 approval of applications for accredited theater production
26 certificates so as to accommodate the pre-production work,

1 booking, commencement of ticket sales, determination of
2 performance dates, load in, and other matters relating to the
3 live theater productions for which approval is sought.

4 Section 10-35. Training programs for skills in critical
5 demand. To accomplish the purposes of this Act, the Department
6 may use the training programs provided under Section 605-800 of
7 the Department of Commerce and Economic Opportunity Law of the
8 Civil Administrative Code of Illinois.

9 Section 10-40. Issuance of Tax Credit Award Certificate.

10 (a) In order to qualify for a tax credit award under this
11 Act, an applicant must file an application for each accredited
12 theater production at each of the applicant's qualified
13 production facilities, on forms prescribed by the Department,
14 providing information necessary to calculate the tax credit
15 award and any additional information as reasonably required by
16 the Department.

17 (b) Upon satisfactory review of the application, the
18 Department shall issue a tax credit award certificate stating
19 the amount of the tax credit award to which the applicant is
20 entitled for that tax year and shall contemporaneously notify
21 the applicant and Illinois Department of Revenue in accordance
22 with Section 222 of the Illinois Income Tax Act.

23 Section 10-45. Amount and payment of the tax credit award.

1 The tax credit award shall be calculated each tax year based
2 upon the filing by the applicant on forms prescribed by the
3 Department containing information regarding qualifying and
4 quantified Illinois labor expenditures, as defined in Section
5 10-10, net of the limitation in that Section, and Illinois
6 production spending, as defined in Section 10-10, net of the
7 limitation in that Section. From the amount calculated, the
8 applicant shall be entitled to receive a tax credit award of up
9 to:

10 (1) 20% of the Illinois labor expenditures for each tax
11 year; plus

12 (2) 20% of the Illinois production spending for each
13 tax year; plus

14 (3) 15% of the Illinois labor expenditures generated by
15 the employment of Illinois residents in geographic areas of
16 high poverty or high unemployment in each tax year, as
17 determined by the Department.

18 Following the Department's determination of the tax credit
19 award, the Department shall issue the tax credit award to the
20 applicant.

21 Section 10-50. Live theater tax credit award program
22 evaluation and reports.

23 (a) The Department's live theater tax credit award
24 evaluation must include:

25 (i) an assessment of the effectiveness of the program

1 in creating and retaining new jobs in Illinois;

2 (ii) an assessment of the revenue impact of the
3 program;

4 (iii) in the discretion of the Department, a review of
5 the practices and experiences of other states or nations
6 with similar programs; and

7 (iv) an assessment of the overall success of the
8 program. The Department may make a recommendation to
9 extend, modify, or not extend the program based on the
10 evaluation.

11 (b) At the end of each fiscal quarter, the Department shall
12 submit to the General Assembly a report that includes, without
13 limitation:

14 (i) an assessment of the economic impact of the
15 program, including the number of jobs created and retained,
16 and whether the job positions are entry level, management,
17 vendor, or production related;

18 (ii) the amount of accredited theater production
19 spending brought to Illinois, including the amount of
20 spending and type of Illinois vendors hired in connection
21 with an accredited theater production; and

22 (iii) a determination of whether those receiving
23 qualifying Illinois labor expenditure salaries or wages
24 reflect the geographical, racial and ethnic, gender, and
25 income level diversity of the State of Illinois.

26 (c) At the end of each fiscal year, the Department shall

1 submit to the General Assembly a report that includes, without
2 limitation:

3 (i) the identification of each vendor that provided
4 goods or services that were included in an accredited
5 theater production's Illinois production spending;

6 (ii) a statement of the amount paid to each identified
7 vendor by the accredited theater production and whether the
8 vendor is a minority or female owned business as defined in
9 Section 2 of the Business Enterprise for Minorities,
10 Females, and Persons with Disabilities Act; and

11 (iii) a description of the steps taken by the
12 Department to encourage accredited theater productions to
13 use vendors who are minority or female owned businesses.

14 Section 10-55. Program terms and conditions. Any
15 documentary materials or data made available or received from
16 an applicant by any agent or employee of the Department are
17 confidential and are not public records to the extent that the
18 materials or data consist of commercial or financial
19 information regarding the operation of or the production of the
20 applicant or recipient of any tax credit award under this Act.

21 Section 10-80. The Illinois Income Tax Act is amended by
22 adding Section 222 as follows:

23 (35 ILCS 5/222 new)

1 Sec. 222. Live theater production credit.

2 (a) For tax years beginning on or after January 1, 2012, a
3 taxpayer who has received a tax credit award under the Live
4 Theater Production Tax Credit Act is entitled to a credit
5 against the taxes imposed under subsections (a) and (b) of
6 Section 201 of this Act in an amount determined under that Act
7 by the Department of Commerce and Economic Opportunity.

8 (b) If the taxpayer is a partnership, limited liability
9 partnership, limited liability company, or Subchapter S
10 corporation, the tax credit award is allowed to the partners,
11 unit holders, or shareholders in accordance with the
12 determination of income and distributive share of income under
13 Sections 702 and 704 and Subchapter S of the Internal Revenue
14 Code.

15 (c) A sale, assignment, or transfer of the tax credit award
16 may be made by the taxpayer earning the credit within one year
17 after the credit is awarded in accordance with rules adopted by
18 the Department of Commerce and Economic Opportunity.

19 (d) The Department of Revenue, in cooperation with the
20 Department of Commerce and Economic Opportunity, shall adopt
21 rules to enforce and administer the provisions of this Section.

22 (e) The tax credit award may not be carried back. If the
23 amount of the credit exceeds the tax liability for the year,
24 the excess may be carried forward and applied to the tax
25 liability of the 5 tax years following the excess credit year.
26 The tax credit award shall be applied to the earliest year for

1 which there is a tax liability. If there are credits from more
2 than one tax year that are available to offset liability, the
3 earlier credit shall be applied first. In no event may a credit
4 under this Section reduce the taxpayer's liability to less than
5 zero.

6 Article 15. Amendatory Provisions

7 Section 15-5. The Economic Development Area Tax Increment
8 Allocation Act is amended by changing Sections 3, 4, 5, 8, 9,
9 and 11 and by adding Sections 4.5 and 4.7 as follows:

10 (20 ILCS 620/3) (from Ch. 67 1/2, par. 1003)

11 Sec. 3. Definitions. In this Act, words or terms shall have
12 the following meanings unless the context or usage clearly
13 indicates that another meaning is intended.

14 (a) "Department" means the Department of Commerce and
15 Economic Opportunity.

16 (b) "Economic development plan" means the written plan of a
17 municipality which sets forth an economic development program
18 for an economic development project area. Each economic
19 development plan shall include but not be limited to (1)
20 estimated economic development project costs, (2) the sources
21 of funds to pay such costs, (3) the nature and term of any
22 obligations to be issued by the municipality to pay such costs,
23 (4) the most recent equalized assessed valuation of the

1 economic development project area, (5) an estimate of the
2 equalized assessed valuation of the economic development
3 project area after completion of an economic development
4 project, (6) the estimated date of completion of any economic
5 development project proposed to be undertaken, (7) a general
6 description of any proposed developer, user, or tenant of any
7 property to be located or improved within the economic
8 development project area, (8) a description of the type,
9 structure and general character of the facilities to be
10 developed or improved in the economic development project area,
11 (9) a description of the general land uses to apply in the
12 economic development project area, (10) a description of the
13 type, class and number of employees to be employed in the
14 operation of the facilities to be developed or improved in the
15 economic development project area, and (11) a commitment by the
16 municipality to fair employment practices and an affirmative
17 action plan with respect to any economic development program to
18 be undertaken by the municipality.

19 (c) "Economic development project" means any development
20 project in furtherance of the objectives of this Act.

21 (d) "Economic development project area" means any improved
22 or vacant area which (1) is located within or partially within
23 or partially without the territorial limits of a municipality,
24 provided that no area without the territorial limits of a
25 municipality shall be included in an economic development
26 project area without the express consent of the Department,

1 acting as agent for the State, (2) is contiguous, (3) is not
2 less in the aggregate than three hundred twenty acres, (4) is
3 suitable for siting by any commercial, manufacturing,
4 industrial, research or transportation enterprise of
5 facilities to include but not be limited to commercial
6 businesses, offices, factories, mills, processing plants,
7 assembly plants, packing plants, fabricating plants,
8 industrial or commercial distribution centers, warehouses,
9 repair overhaul or service facilities, freight terminals,
10 research facilities, test facilities or transportation
11 facilities, whether or not such area has been used at any time
12 for such facilities and whether or not the area has been used
13 or is suitable for other uses, including commercial
14 agricultural purposes, and (5) which has been approved and
15 certified by the Department pursuant to this Act.

16 (e) "Economic development project costs" mean and include
17 the sum total of all reasonable or necessary costs incurred by
18 a municipality incidental to an economic development project,
19 including, without limitation, the following:

20 (1) Costs of studies, surveys, development of plans and
21 specifications, implementation and administration of an
22 economic development plan, personnel and professional service
23 costs for architectural, engineering, legal, marketing,
24 financial, planning, police, fire, public works or other
25 services, provided that no charges for professional services
26 may be based on a percentage of incremental tax revenues;

1 (2) Property assembly costs within an economic development
2 project area, including but not limited to acquisition of land
3 and other real or personal property or rights or interests
4 therein, and specifically including payments to developers or
5 other nongovernmental persons as reimbursement for property
6 assembly costs incurred by such developer or other
7 nongovernmental person;

8 (3) Site preparation costs, including but not limited to
9 clearance of any area within an economic development project
10 area by demolition or removal of any existing buildings,
11 structures, fixtures, utilities and improvements and clearing
12 and grading; and including installation, repair, construction,
13 reconstruction, or relocation of public streets, public
14 utilities, and other public site improvements within or without
15 an economic development project area which are essential to the
16 preparation of the economic development project area for use in
17 accordance with an economic development plan; and specifically
18 including payments to developers or other nongovernmental
19 persons as reimbursement for site preparation costs incurred by
20 such developer or nongovernmental person;

21 (4) Costs of renovation, rehabilitation, reconstruction,
22 relocation, repair or remodeling of any existing buildings,
23 improvements, and fixtures within an economic development
24 project area, and specifically including payments to
25 developers or other nongovernmental persons as reimbursement
26 for such costs incurred by such developer or nongovernmental

1 person;

2 (5) Costs of construction, acquisition, and operation
3 within an economic development project area of public
4 improvements, including but not limited to, publicly-owned
5 buildings, structures, works, utilities or fixtures; provided
6 that no allocation made to the municipality pursuant to
7 subparagraph (A) of paragraph (2) of subsection (g) of Section
8 4 of this Act or subparagraph (A) of paragraph (4) of
9 subsection (g) of Section 4 of this Act shall be used to
10 operate a convention center or similar entertainment complex or
11 venue;

12 (6) Financing costs, including but not limited to all
13 necessary and incidental expenses related to the issuance of
14 obligations, payment of any interest on any obligations issued
15 hereunder which accrues during the estimated period of
16 construction of any economic development project for which such
17 obligations are issued and for not exceeding 36 months
18 thereafter, and any reasonable reserves related to the issuance
19 of such obligations;

20 (7) All or a portion of a taxing district's capital costs
21 resulting from an economic development project necessarily
22 incurred or estimated to be incurred by a taxing district in
23 the furtherance of the objectives of an economic development
24 project, to the extent that the municipality by written
25 agreement accepts and approves such costs;

26 (8) Relocation costs to the extent that a municipality

1 determines that relocation costs shall be paid or is required
2 to make payment of relocation costs by federal or State law;

3 (9) The estimated tax revenues from real property in an
4 economic development project area acquired by a municipality
5 which, according to the economic development plan, is to be
6 used for a private use and which any taxing district would have
7 received had the municipality not adopted tax increment
8 allocation financing for an economic development project area
9 and which would result from such taxing district's levies made
10 after the time of the adoption by the municipality of tax
11 increment allocation financing to the time the current
12 equalized assessed value of real property in the economic
13 development project area exceeds the total initial equalized
14 value of real property in said area;

15 (10) Costs of job training, advanced vocational or career
16 education, including but not limited to courses in
17 occupational, semi-technical or technical fields leading
18 directly to employment, incurred by one or more taxing
19 districts, provided that such costs are related to the
20 establishment and maintenance of additional job training,
21 advanced vocational education or career education programs for
22 persons employed or to be employed by employers located in an
23 economic development project area, and further provided that
24 when such costs are incurred by a taxing district or taxing
25 districts other than the municipality they shall be set forth
26 in a written agreement by or among the municipality and the

1 taxing district or taxing districts, which agreement describes
2 the program to be undertaken, including but not limited to the
3 number of employees to be trained, a description of the
4 training and services to be provided, the number and type of
5 positions available or to be available, itemized costs of the
6 program and sources of funds to pay the same, and the term of
7 the agreement. Such costs include, specifically, the payment by
8 community college districts of costs pursuant to Sections 3-37,
9 3-38, 3-40 and 3-40.1 of the Public Community College Act and
10 by school districts of costs pursuant to Sections 10-22.20a and
11 10-23.3a of The School Code;

12 (11) Private financing costs incurred by developers or
13 other nongovernmental persons in connection with an economic
14 development project, and specifically including payments to
15 developers or other nongovernmental persons as reimbursement
16 for such costs incurred by such developer or other
17 nongovernmental person, provided that:

18 (A) private financing costs shall be paid or reimbursed by
19 a municipality only pursuant to the prior official action of
20 the municipality evidencing an intent to pay or reimburse such
21 private financing costs;

22 (B) except as provided in subparagraph (D), the aggregate
23 amount of such costs paid or reimbursed by a municipality in
24 any one year shall not exceed 30% of such costs paid or
25 incurred by the developer or other nongovernmental person in
26 that year;

1 (C) private financing costs shall be paid or reimbursed by
2 a municipality solely from the special tax allocation fund
3 established pursuant to this Act and shall not be paid or
4 reimbursed from the proceeds of any obligations issued by a
5 municipality;

6 (D) if there are not sufficient funds available in the
7 special tax allocation fund in any year to make such payment or
8 reimbursement in full, any amount of such interest cost
9 remaining to be paid or reimbursed by a municipality shall
10 accrue and be payable when funds are available in the special
11 tax allocation fund to make such payment; and

12 (E) in connection with its approval and certification of an
13 economic development project pursuant to Section 5 of this Act,
14 the Department shall review any agreement authorizing the
15 payment or reimbursement by a municipality of private financing
16 costs in its consideration of the impact on the revenues of the
17 municipality and the affected taxing districts of the use of
18 tax increment allocation financing.

19 (f) "Municipality" means a city, village or incorporated
20 town.

21 (g) "Obligations" means any instrument evidencing the
22 obligation of a municipality to pay money, including without
23 limitation, bonds, notes, installment or financing contracts,
24 certificates, tax anticipation warrants or notes, vouchers,
25 and any other evidence of indebtedness.

26 (h) "Taxing districts" means counties, townships,

1 municipalities, and school, road, park, sanitary, mosquito
2 abatement, forest preserve, public health, fire protection,
3 river conservancy, tuberculosis sanitarium and any other
4 municipal corporations or districts with the power to levy
5 taxes upon property located within the economic development
6 project area.

7 (Source: P.A. 94-793, eff. 5-19-06.)

8 (20 ILCS 620/4) (from Ch. 67 1/2, par. 1004)

9 Sec. 4. Establishment of economic development project
10 areas; ordinance; notice; hearing; changes in economic
11 development plan. Economic development project areas shall be
12 established as follows:

13 (a) The corporate authorities of a municipality shall by
14 ordinance propose the establishment of an economic development
15 project area and fix a time and place for a public hearing, and
16 shall submit a certified copy of the ordinance as adopted to
17 the Department.

18 (b) (1) Notice of the public hearing shall be given by
19 publication and mailing. Notice by publication shall be given
20 by publication at least twice, the first publication to be not
21 more than 30 nor less than 10 days prior to the hearing in a
22 newspaper of general circulation within the taxing districts
23 having property in the proposed economic development project
24 area. Notice by mailing shall be given by depositing such
25 notice together with a copy of the proposed economic

1 development plan in the United States mails by certified mail
2 addressed to the person or persons in whose name the general
3 taxes for the last preceding year were paid on each lot, block,
4 tract, or parcel of land lying within the economic development
5 project area. The notice shall be mailed not less than 10 days
6 prior to the date set for the public hearing. In the event
7 taxes for the last preceding year were not paid, the notice
8 shall also be sent to the persons last listed on the tax rolls
9 within the preceding 3 years as the owners of such property.

10 (2) The notices issued pursuant to this Section shall
11 include the following:

12 (A) The time and place of public hearing;

13 (B) The boundaries of the proposed economic development
14 project area by legal description and by street location where
15 possible;

16 (C) A notification that all interested persons will be
17 given an opportunity to be heard at the public hearing;

18 (D) An invitation for any person to submit alternative
19 proposals or bids for any proposed conveyance, lease, mortgage
20 or other disposition of land within the proposed economic
21 development project area;

22 (E) A description of the economic development plan or
23 economic development project if a plan or project is a subject
24 matter of the hearing; and

25 (F) Such other matters as the municipality may deem
26 appropriate.

1 (3) Not less than 30 days prior to the date set for
2 hearing, the municipality shall give notice by mail as provided
3 in this subsection (b) to all taxing districts, of which
4 taxable property is included in the economic development
5 project area, and to the Department. In addition to the other
6 requirements under this subsection (b), the notice shall
7 include an invitation to the Department and each taxing
8 district to submit comments to the municipality concerning the
9 subject matter of the hearing prior to the date of hearing.

10 (c) At the public hearing any interested person, the
11 Department or any affected taxing district may file written
12 objections with the municipal clerk and may be heard orally
13 with respect to any issues embodied in the notice. The
14 municipality shall hear and determine all alternate proposals
15 or bids for any proposed conveyance, lease, mortgage or other
16 disposition of land and all protests and objections at the
17 hearing, and the hearing may be adjourned to another date
18 without further notice other than a motion to be entered upon
19 the minutes fixing the time and place of the adjourned hearing.
20 Public hearings with regard to an economic development plan,
21 economic development project area, or economic development
22 project may be held simultaneously.

23 (d) At the public hearing or at any time prior to the
24 adoption by the municipality of an ordinance approving an
25 economic development plan, the municipality may make changes in
26 the economic development plan. Changes which (1) alter the

1 exterior boundaries of the proposed economic development
2 project area, (2) substantially affect the general land uses
3 established in the proposed economic development plan, (3)
4 substantially change the nature of the proposed economic
5 development project, (4) change the general description of any
6 proposed developer, user or tenant of any property to be
7 located or improved within the economic development project
8 area, or (5) change the description of the type, class and
9 number of employees to be employed in the operation of the
10 facilities to be developed or improved within the economic
11 development project area shall be made only after notice and
12 hearing pursuant to the procedures set forth in this Section.
13 Changes which do not (1) alter the exterior boundaries of a
14 proposed economic development project area, (2) substantially
15 affect the general land uses established in the proposed
16 economic development plan, (3) substantially change the nature
17 of the proposed economic development project, (4) change the
18 general description of any proposed developer, user or tenant
19 of any property to be located or improved within the economic
20 development project area, or (5) change the description of the
21 type, class and number of employees to be employed in the
22 operation of the facilities to be developed or improved within
23 the economic development project area may be made without
24 further hearing, provided that the municipality shall give
25 notice of its changes by mail to the Department and to each
26 affected taxing district and by publication in a newspaper or

1 newspapers of general circulation within the affected taxing
2 districts. Such notice by mail and by publication shall each
3 occur not later than 10 days following the adoption by
4 ordinance of such changes.

5 (e) At any time within 30 days of the final adjournment of
6 the public hearing, a municipality may, by ordinance, approve
7 the economic development plan, establish the economic
8 development project area, and authorize tax increment
9 allocation financing for such economic development project
10 area. Any ordinance adopted which approves an economic
11 development plan shall contain findings that the developer or
12 any of its successor entities and its subsidiaries ~~economic~~
13 ~~development project~~ shall create or retain not less than 4,250
14 ~~2,000~~ full-time equivalent jobs, that private investment in an
15 amount not less than \$100,000,000 shall occur in the economic
16 development project area, that the economic development
17 project will encourage the increase of commerce and industry
18 within the State, thereby reducing the evils attendant upon
19 unemployment and increasing opportunities for personal income,
20 and that the economic development project will increase or
21 maintain the property, sales and income tax bases of the
22 municipality and of the State. Any ordinance adopted which
23 establishes an economic development project area shall contain
24 the boundaries of such area by legal description and, where
25 possible, by street location. Any ordinance adopted which
26 authorizes tax increment allocation financing shall provide

1 that the ad valorem taxes, if any, arising from the levies upon
2 taxable real property in such economic development project area
3 by taxing districts and tax rates determined in the manner
4 provided in subsection (b) of Section 6 of this Act each year
5 after the effective date of the ordinance until economic
6 development project costs and all municipal obligations
7 financing economic development project costs incurred under
8 this Act have been paid shall be divided as follows:

9 (1) That portion of taxes levied upon each taxable lot,
10 block, tract or parcel of real property which is attributable
11 to the lower of the current equalized assessed value or the
12 initial equalized assessed value of each such taxable lot,
13 block, tract or parcel of real property in the economic
14 development project area shall be allocated to and when
15 collected shall be paid by the county collector to the
16 respective affected taxing districts in the manner required by
17 law in the absence of the adoption of tax increment allocation
18 financing.

19 (2) That portion, if any, of such taxes which is
20 attributable to the increase in the current equalized assessed
21 valuation of each taxable lot, block, tract or parcel of real
22 property in the economic development project area over and
23 above the initial equalized assessed value of each property in
24 the economic development project area shall be allocated to and
25 when collected shall be paid to the municipal treasurer who
26 shall deposit such taxes into a special fund called the special

1 tax allocation fund of the municipality for the purpose of
2 paying economic development project costs and obligations
3 incurred in the payment thereof.

4 (f) After a municipality has by ordinance approved an
5 economic development plan and established an economic
6 development project area, the plan may be amended and the
7 boundaries of the area may be altered only as herein provided.
8 Amendments which (1) alter the exterior boundaries of an
9 economic development project area, (2) substantially affect
10 the general land uses established pursuant to the economic
11 development plan, (3) substantially change the nature of the
12 economic development project, (4) change the general
13 description of any proposed developer, user, or tenant of any
14 property to be located or improved within the economic
15 development project area, or (5) change the description of the
16 type, class and number of employees to be employed in the
17 operation of the facilities to be developed or improved within
18 the economic development project area, shall be made only after
19 notice and hearing pursuant to the procedures set forth in this
20 Section. Amendments which do not (1) alter the boundaries of
21 the economic development project area, (2) substantially
22 affect the general land uses established in the economic
23 development plan, (3) substantially change the nature of the
24 economic development project, (4) change the general
25 description of any proposed developer, user, or tenant of any
26 property to be located or improved within the economic

1 development project area, or (5) change the description of the
2 type, class and number of employees to be employed in the
3 operation of the facilities to be developed or improved within
4 the economic development project area may be made without
5 further hearing, provided that the municipality shall give
6 notice of any amendment by mail to the Department and to each
7 taxing district and by publication in a newspaper or newspapers
8 of general circulation within the affected taxing districts.
9 Such notice by mail and by publication shall each occur not
10 later than 10 days following the adoption by ordinance of any
11 amendments.

12 (g) Extension of economic development project area;
13 allocations; payment of outstanding claims; changes in
14 equalized assessed valuation.

15 (1) Notwithstanding anything to the contrary set forth in
16 this Act, upon the effective date of this amendatory Act of the
17 97th General Assembly, the duration of any existing economic
18 development plan created pursuant to this Act is extended to
19 the duration permitted under this subsection, up to a maximum
20 duration of 15 years.

21 (2) For the purposes of this Section, real estate taxes
22 paid on property within the economic development project area
23 during calendar year 2013 and remitted to the developer and the
24 taxing districts in 2014 shall be the "base amount". Beginning
25 with real estate taxes remitted in 2014, for any economic
26 development plan extended by operation of item (1) of this

1 subsection (g), until such time as all existing obligations, as
2 that term is defined in item (5) of this subsection (g), have
3 been satisfied, the allocation of the special tax allocation
4 fund shall be as follows:

5 (A) All receipts up to the first \$350,000 shall be
6 maintained by the municipality in an escrow account to be
7 used solely for (i) expenses relating to the reports
8 required by Section 4.7 of this Act and (ii) legal expenses
9 incurred in defense of any civil action brought against the
10 municipality relating to the economic development
11 agreement. The escrow account shall be within the scope of
12 the annual audit provided in Section 4.7 of this Act. Each
13 December 31 following a deposit into the escrow account,
14 any unobligated balance in the escrow account shall be
15 distributed to the taxing districts in the same manner and
16 proportion as the most recent distribution by the county
17 collector to the taxing districts in the economic
18 development project area.

19 (B) After the allocation required pursuant to
20 paragraph (A) of this item (2), the next \$5,000,000 of the
21 receipts shall be allocated to the municipality.

22 (C) After the allocations required pursuant to
23 paragraphs (A) and (B) of this item (2), 55% of the
24 remaining receipts shall be allocated to the developer.

25 (D) After the allocations required pursuant to parts
26 (A) and (B) of this item (2), 45% of the remaining receipts

1 shall be allocated to the taxing districts located within
2 the economic development project area, excluding the
3 municipality.

4 (3) For real estate taxes paid in 2012 and remitted to the
5 developer and the taxing districts in 2013 and prior years, the
6 allocation formula contained in any economic development plan
7 in effect immediately prior to the effective date of this
8 amendatory Act of the 97th General Assembly shall apply.

9 (4) Beginning with real estate taxes paid in 2014 and
10 remitted to the developer and the taxing districts in 2015 and
11 each year thereafter, if the taxes paid within the economic
12 development project area change from the base amount, the
13 allocation of the special tax allocation fund shall be as
14 follows:

15 (A) If the amount of current year taxes paid is less
16 than the base amount, then the administrative escrow
17 account shall receive the first \$350,000 of receipts, the
18 municipality shall receive the next \$5,000,000 of
19 receipts, the developer shall receive 55% of receipts over
20 \$5,350,000, and the remaining 45% of receipts over
21 \$5,350,000 shall be distributed to the taxing districts
22 (excluding the municipality) in the same manner and
23 proportion as the most recent distribution by the county
24 collector to those taxing districts in the economic
25 development project area.

26 (B) If the amount of current year taxes paid is greater

1 than the base amount, then 75% of the increase in real
2 estate tax receipts shall be payable to the developer and
3 the remaining 25% of the increase in real estate tax
4 receipts shall be distributed to the taxing districts
5 (including the municipality) pursuant to the formula in
6 this subsection.

7 (5) After (i) all existing obligations and interest thereon
8 have been satisfied, (ii) any excess moneys have been
9 distributed pursuant to this subsection, and (iii) final
10 closing of the books and records of the economic development
11 project area has occurred, the municipality shall adopt an
12 ordinance dissolving the special tax allocation fund for the
13 economic development project area and terminating the
14 designation of the economic development project area as an
15 economic development project area. All excess moneys in the
16 special tax allocation fund shall be distributed to the taxing
17 districts in the same manner and proportion as the most recent
18 distribution by the county collector to those taxing districts
19 in the economic development project area. For the purpose of
20 this subsection (g), "existing obligations" means (i) the
21 obligations of the developer that existed before the base year,
22 as certified by a sworn affidavit of the principal financial
23 officer of the developer attesting that the amounts set forth
24 are true and correct, (ii) obligations of the municipality
25 relating to the payment of the obligations of the developer,
26 and (iii) any amounts payable by taxing districts to the

1 developer for property taxes determined to have been overpaid,
2 to the extent that those amounts payable have been carried
3 forward as an interest bearing note due to the developer. All
4 obligations of the developer due and payable shall be processed
5 and paid in the order received, with the oldest notes to be
6 processed and paid first. Beginning January 1, 2012, all
7 outstanding interest bearing notes shall bear interest at the
8 rate of 4% until paid.

9 (h) Beginning on the effective date of this amendatory Act
10 of the 97th General Assembly, the taxing districts shall meet
11 annually 180 days after the close of the municipal fiscal year,
12 or as soon as the economic development project audit for that
13 fiscal year becomes available, to review the effectiveness and
14 status of the economic development project area up to that
15 date.

16 (Source: P.A. 86-38.)

17 (20 ILCS 620/4.5 new)

18 Sec. 4.5. Recapture.

19 (a) In the event that the developer terminates all of its
20 operations and vacates the redevelopment area within 60 months
21 after the effective date of this amendatory Act of the 97th
22 General Assembly, the developer shall be required to remit to
23 the Department an amount equal to the payments disbursed to the
24 developer in 2014 and subsequent years under the Agreement.
25 Within 30 days after receipt, the Department shall remit such

1 funds to the county collector. The county collector shall
2 thereafter make distribution to the respective taxing
3 districts in the same manner and proportion as the most recent
4 distribution by the county collector to those taxing districts
5 of real property taxes from real property in the economic
6 development project area.

7 (b) In the event the developer fails to maintain 4,250 jobs
8 at any time before the termination of the economic development
9 project area, except as provided in subsection (c), the
10 developer shall forfeit an amount of its allocations from the
11 special tax allocation fund for that time period in which the
12 developer failed to maintain 4,250 jobs. The amount forfeited
13 shall equal the percentage of the year that the developer
14 failed to maintain 4,250 multiplied by the amount the developer
15 would have received if they maintained 4,250 jobs for the
16 entire year. Any funds that are forfeited shall be distributed
17 to the taxing districts in the same manner and proportion as
18 the most recent distribution by the county collector to those
19 taxing districts (inclusive of the municipality) in the
20 economic development project area.

21 (c) In the event that the developer maintains no jobs at
22 any time before the termination of the economic development
23 project area, the municipality shall adopt an ordinance
24 dissolving the special tax allocation fund for the economic
25 development project area and terminating the economic
26 development project area as an economic development project

1 area. That ordinance shall be adopted no later than one year
2 after the date that the developer maintains no jobs within the
3 economic development project area. All excess moneys in the
4 special tax allocation fund shall be distributed to the taxing
5 districts in the same manner and proportion as the most recent
6 distribution by the county collector to those taxing districts
7 in the economic development project area.

8 (20 ILCS 620/4.7 new)

9 Sec. 4.7. Municipal reports. After the effective date of
10 this amendatory Act of the 97th General Assembly, a
11 municipality shall submit in an electronic format all of the
12 following information for each economic development project
13 area (i) to the State Comptroller and (ii) to all taxing
14 districts overlapping the economic development project area no
15 later than 180 days after the close of each municipal fiscal
16 year or as soon thereafter as the audited financial statements
17 become available:

18 (1) Any amendments to the economic development plan or
19 the economic development project area.

20 (2) Audited financial statements of the special tax
21 allocation fund once a cumulative total of \$100,000 has
22 been deposited into the fund.

23 (3) Certification of the Chief Executive Officer of the
24 municipality that the municipality has complied with all of
25 the requirements of this Act during the preceding fiscal

1 year.

2 (4) An opinion of legal counsel that the municipality
3 is in compliance with this Act.

4 (5) An analysis of the special tax allocation fund that
5 sets forth:

6 (A) the balance in the special tax allocation fund
7 at the beginning of the fiscal year;

8 (B) all amounts deposited in the special tax
9 allocation fund by source;

10 (C) an itemized list of all expenditures from the
11 special tax allocation fund by category of permissible
12 economic development project cost; and

13 (D) the balance in the special tax allocation fund
14 at the end of the fiscal year, including a breakdown of
15 that balance by source and a breakdown of that balance
16 identifying any portion of the balance that is
17 required, pledged, earmarked, or otherwise designated
18 for payment of or securing of obligations and
19 anticipated economic development project costs; any
20 portion of that ending balance that has not been
21 identified or is not identified as being required,
22 pledged, earmarked, or otherwise designated for
23 payment of or securing of obligations or anticipated
24 economic development projects costs shall be
25 designated as surplus as set forth in Section 8 of this
26 Act.

1 (6) A description of all property purchased by the
2 municipality within the economic development project area
3 including:

4 (A) street address;

5 (B) approximate size or description of property;

6 (C) purchase price; and

7 (D) the seller of the property.

8 (7) A statement setting forth all activities
9 undertaken in furtherance of the objectives of the economic
10 development plan, including:

11 (A) any project implemented in the preceding
12 fiscal year;

13 (B) a description of the economic development
14 activities undertaken;

15 (C) a description of any agreements entered into by
16 the municipality with regard to the disposition or
17 redevelopment of any property within the economic
18 development project area;

19 (D) additional information on the use of all funds
20 received under this Act and steps taken by the
21 municipality to achieve the objectives of the economic
22 development plan;

23 (E) information regarding contracts that the
24 municipality's tax increment advisors or consultants
25 have entered into with entities or persons that have
26 received, or are receiving, payments financed by tax

1 increment revenues produced by the same economic
2 development project area; and

3 (F) a review of public and, to the extent possible,
4 private investment actually undertaken on or after the
5 effective date of this amendatory Act of the 97th
6 General Assembly and prior to the date of the report
7 and estimated to be undertaken during the following
8 fiscal year; this review shall, on a project by project
9 basis, set forth the estimated amounts of public and
10 private investment incurred after the effective date
11 of this amendatory Act of the 97th General Assembly and
12 provide the ratio of private investment to public
13 investment to the date of the report and as estimated
14 to the completion of the economic development project.

15 (8) With regard to any obligations issued by the
16 municipality:

17 (A) copies of any official statements; and

18 (B) an analysis prepared by financial advisor or
19 underwriter setting forth: (i) the nature and term of
20 those obligations; and (ii) projected debt service
21 including required reserves and debt coverage.

22 (9) For special tax allocation funds that have
23 experienced cumulative deposits of incremental tax
24 revenues of \$100,000 or more, a certified audit report
25 reviewing compliance with this Act performed by an
26 independent certified public accountant licensed by the

1 authority of the State of Illinois. The financial portion
2 of the audit must be conducted in accordance with Standards
3 for Audits of Governmental Organizations, Programs,
4 Activities, and Functions adopted by the Comptroller
5 General of the United States (1981), as amended, or the
6 standards specified by Section 8-8-5 of the Illinois
7 Municipal Auditing Law of the Illinois Municipal Code. The
8 audit report shall contain a letter from the independent
9 certified public accountant indicating compliance or
10 noncompliance with the requirements of subsection (e) of
11 Section 3 of this Act.

12 (10) A list of all intergovernmental agreements in
13 effect during the fiscal year to which the municipality is
14 a party and an accounting of any moneys transferred or
15 received by the municipality during that fiscal year
16 pursuant to those intergovernmental agreements.

17 (20 ILCS 620/5) (from Ch. 67 1/2, par. 1005)

18 Sec. 5. Submission to Department; certification by
19 Department; limitation on number of permissible economic
20 development project areas. (a) The municipality shall submit
21 certified copies of any ordinances adopted approving an
22 economic development plan, establishing an economic
23 development project area, and authorizing tax increment
24 allocation financing for such economic development project
25 area to the Department, together with (1) a map of the economic

1 development project area, (2) a copy of the economic
2 development plan as approved, (3) an analysis, and any
3 supporting documents and statistics, demonstrating that the
4 developer or any of its successor entities and its subsidiaries
5 ~~economic development project~~ shall create or retain not less
6 than 4,250 ~~2,000~~ full-time equivalent jobs and that private
7 investment in the amount of not less than \$100,000,000 shall
8 occur in the economic development project area, (4) an estimate
9 of the economic impact of the economic development project and
10 the use of tax increment allocation financing upon the revenues
11 of the municipality and the affected taxing districts, (5) a
12 record of all public hearings had in connection with the
13 establishment of the economic development project area, and (6)
14 such other information as the Department by regulation may
15 require.

16 (b) Upon receipt of an application from a municipality the
17 Department shall review the application to determine whether
18 the economic development project area qualifies as an economic
19 development project area under this Act. At its discretion, the
20 Department may accept or reject the application or may request
21 such additional information as it deems necessary or advisable
22 to aid its review. If any such area is found to be qualified to
23 be an economic development project area, the Department shall
24 approve and certify such economic development project area and
25 shall provide written notice of its approval and certification
26 to the municipality and to the county clerk. In determining

1 whether an economic development project area shall be approved
2 and certified, the Department shall consider (1) whether,
3 without public intervention, the State would suffer
4 substantial economic dislocation, such as relocation of a
5 commercial business or industrial or manufacturing facility to
6 another state, territory or country, or would not otherwise
7 benefit from private investment offering substantial
8 employment opportunities and economic growth, and (2) the
9 impact on the revenues of the municipality and the affected
10 taxing districts of the use of tax increment allocation
11 financing in connection with the economic development project.

12 (c) On or before the date which is 18 months following the
13 date on which this Act becomes law, the Department shall submit
14 to the General Assembly a report detailing the number of
15 economic development project areas it has approved and
16 certified, the number and type of jobs created or retained
17 therein, the aggregate amount of private investment therein,
18 the impact on the revenues of municipalities and affected
19 taxing districts of the use of tax increment allocation
20 financing therein, and such additional information as the
21 Department may determine to be relevant. On or after the date
22 which is 20 months following the date on which this Act becomes
23 law the authority granted hereunder to municipalities to
24 establish economic development project areas and to adopt tax
25 increment allocation financing in connection therewith and to
26 the Department to approve and certify economic development

1 project areas shall expire unless the General Assembly shall
2 have authorized municipalities and the Department to continue
3 to exercise the powers granted to them hereunder.

4 (Source: P.A. 86-38.)

5 (20 ILCS 620/8) (from Ch. 67 1/2, par. 1008)

6 Sec. 8. Issuance of obligations for economic development
7 project costs. Obligations secured by the special tax
8 allocation fund provided for in Section 7 of this Act for an
9 economic development project area may be issued to provide for
10 economic development project costs. Those obligations, when so
11 issued, shall be retired in the manner provided in the
12 ordinance authorizing the issuance of the obligations by the
13 receipts of taxes levied as specified in Section 6 of this Act
14 against the taxable property included in the economic
15 development project area and by other revenue designated or
16 pledged by the municipality. A municipality may in the
17 ordinance pledge all or any part of the funds in and to be
18 deposited in the special tax allocation fund created pursuant
19 to Section 7 of this Act to the payment of the economic
20 development project costs and obligations. Whenever a
21 municipality pledges all of the funds to the credit of a
22 special tax allocation fund to secure obligations issued or to
23 be issued to pay economic development project costs, the
24 municipality may specifically provide that funds remaining to
25 the credit of such special tax allocation fund after the

1 payment of such obligations shall be accounted for annually and
2 shall be deemed to be "surplus" funds, and such "surplus" funds
3 shall be distributed as hereinafter provided. Whenever a
4 municipality pledges less than all of the monies to the credit
5 of a special tax allocation fund to secure obligations issued
6 or to be issued to pay economic development project costs, the
7 municipality shall provide that monies to the credit of the
8 special tax allocation fund and not subject to such pledge or
9 otherwise encumbered or required for payment of contractual
10 obligations for specific economic development project costs
11 shall be calculated annually and shall be deemed to be
12 "surplus" funds, and such "surplus" funds shall be distributed
13 as hereinafter provided. All funds to the credit of a special
14 tax allocation fund which are deemed to be "surplus" funds
15 shall be distributed annually within 180 days of the close of
16 the municipality's fiscal year by being paid by the municipal
17 treasurer to the county collector. The county collector shall
18 thereafter make distribution to the respective taxing
19 districts in the same manner and proportion as the most recent
20 distribution by the county collector to those taxing districts
21 of real property taxes from real property in the economic
22 development project area.

23 Without limiting the foregoing in this Section the
24 municipality may, in addition to obligations secured by the
25 special tax allocation fund, pledge for a period not greater
26 than the term of the obligations towards payment of those

1 obligations any part or any combination of the following: (i)
2 net revenues of all or part of any economic development
3 project; (ii) taxes levied and collected on any or all property
4 in the municipality, including, specifically, taxes levied or
5 imposed by the municipality in a special service area pursuant
6 to "An Act to provide the manner of levying or imposing taxes
7 for the provision of special services to areas within the
8 boundaries of home rule units and non-home rule municipalities
9 and counties", approved September 21, 1973, as now or hereafter
10 amended; (iii) the full faith and credit of the municipality;
11 (iv) a mortgage on part or all of the economic development
12 project; or (v) any other taxes or anticipated receipts that
13 the municipality may lawfully pledge.

14 Such obligations may be issued in one or more series
15 bearing interest at such rate or rates as the corporate
16 authorities of the municipality shall determine by ordinance,
17 which rate or rates may be variable or fixed, without regard to
18 any limitations contained in any law now in effect or hereafter
19 adopted. Such obligations shall bear such date or dates, mature
20 at such time or times not exceeding 38 ~~20~~ years from their
21 respective dates, but in no event exceeding 38 ~~23~~ years from
22 the date of establishment of the economic development project
23 area, be in such denomination, be in such form, whether coupon,
24 registered or book-entry, carry such registration, conversion
25 and exchange privileges, be executed in such manner, be payable
26 in such medium of payment at such place or places within or

1 without the State of Illinois, contain such covenants, terms
2 and conditions, be subject to redemption with or without
3 premium, be subject to defeasance upon such terms, and have
4 such rank or priority, as such ordinance shall provide.
5 Obligations issued pursuant to this Act may be sold at public
6 or private sale at such price as shall be determined by the
7 corporate authorities of the municipalities. Such obligations
8 may, but need not, be issued utilizing the provisions of any
9 one or more of the omnibus bond Acts specified in Section 1.33
10 of "An Act to revise the law in relation to the construction of
11 the statutes", approved March 5, 1874, as now or hereafter
12 amended. No referendum approval of the electors shall be
13 required as a condition to the issuance of obligations pursuant
14 to this Act except as provided in this Section.

15 Whenever a municipality issues bonds for the purpose of
16 financing economic development project costs, the municipality
17 may provide by ordinance for the appointment of a trustee,
18 which may be any trust company within the State, and for the
19 establishment of the funds or accounts to be maintained by such
20 trustee as the municipality shall deem necessary to provide for
21 the security and payment of the bonds. If the municipality
22 provides for the appointment of a trustee, the trustee shall be
23 considered the assignee of any payments assigned by the
24 municipality pursuant to the ordinance and this Section. Any
25 amounts paid to the trustee as assignee shall be deposited in
26 the funds or accounts established pursuant to the trust

1 agreement, and shall be held by the trustee in trust for the
2 benefit of the holders of the bonds, and the holders shall have
3 a lien on and a security interest in those bonds or accounts so
4 long as the bonds remain outstanding and unpaid. Upon
5 retirement of the bonds, the trustee shall pay over any excess
6 amounts held to the municipality for deposit in the special tax
7 allocation fund.

8 In the event the municipality authorizes the issuance of
9 obligations pursuant to the authority of this Act secured by
10 the full faith and credit of the municipality, or pledges ad
11 valorem taxes pursuant to clause (ii) of the second paragraph
12 of this Section, which obligations are other than obligations
13 which may be issued under home rule powers provided by Article
14 VII, Section 6 of the Illinois Constitution or which ad valorem
15 taxes are other than ad valorem taxes which may be pledged
16 under home rule powers provided by Article VII, Section 6 of
17 the Illinois Constitution or which are levied in a special
18 service area pursuant to "An Act to provide the manner of
19 levying or imposing taxes for the provision of special services
20 to areas within the boundaries of home rule units and non-home
21 rule municipalities and counties", approved September 21,
22 1973, as now or hereafter amended, the ordinance authorizing
23 the issuance of those obligations or pledging those taxes shall
24 be published within 10 days after the ordinance has been
25 adopted, in one or more newspapers having a general circulation
26 within the municipality. The publication of the ordinance shall

1 be accompanied by a notice of (1) the specific number of voters
2 required to sign a petition requesting the question of the
3 issuance of the obligations or pledging such ad valorem taxes
4 to be submitted to the electors; (2) the time within which the
5 petition must be filed; and (3) the date of the prospective
6 referendum. The municipal clerk shall provide a petition form
7 to any individual requesting one.

8 If no petition is filed with the municipal clerk, as
9 hereinafter provided in this Section, within 21 days after the
10 publication of the ordinance, the ordinance shall be in effect.
11 However, if within that 21 day period a petition is filed with
12 the municipal clerk, signed by electors numbering not less than
13 15% of the number of electors voting for the mayor or president
14 at the last general municipal election, asking that the
15 question of issuing obligations using full faith and credit of
16 the municipality as security for the cost of paying for
17 economic development project costs, or of pledging such ad
18 valorem taxes for the payment of those obligations, or both, be
19 submitted to the electors of the municipality, the municipality
20 shall not be authorized to issue obligations of the
21 municipality using the full faith and credit of the
22 municipality as security or pledging such ad valorem taxes for
23 the payment of those obligations, or both, until the
24 proposition has been submitted to and approved by a majority of
25 the voters voting on the proposition at a regularly scheduled
26 election. The municipality shall certify the proposition to the

1 proper election authorities for submission in accordance with
2 the general election law.

3 The ordinance authorizing the obligations may provide that
4 the obligations shall contain a recital that they are issued
5 pursuant to this Act, which recital shall be conclusive
6 evidence of their validity and of the regularity of their
7 issuance.

8 In the event the municipality authorizes issuance of
9 obligations pursuant to this Act secured by the full faith and
10 credit of the municipality, the ordinance authorizing the
11 obligations may provide for the levy and collection of a direct
12 annual tax upon all taxable property within the municipality
13 sufficient to pay the principal thereof and interest thereon as
14 it matures, which levy may be in addition to and exclusive of
15 the maximum of all other taxes authorized to be levied by the
16 municipality, which levy, however, shall be abated to the
17 extent that monies from other sources are available for payment
18 of the obligations and the municipality certifies the amount of
19 those monies available to the county clerk.

20 A certified copy of the ordinance shall be filed with the
21 county clerk of each county in which any portion of the
22 municipality is situated, and shall constitute the authority
23 for the extension and collection of the taxes to be deposited
24 in the special tax allocation fund.

25 A municipality may also issue its obligations to refund, in
26 whole or in part, obligations theretofore issued by the

1 municipality under the authority of this Act, whether at or
2 prior to maturity. However, the last maturity of the refunding
3 obligations shall not be expressed to mature later than 38 ~~23~~
4 years from the date of the ordinance establishing the economic
5 development project area.

6 In the event a municipality issues obligations under home
7 rule powers or other legislative authority, the proceeds of
8 which are pledged to pay for economic development project
9 costs, the municipality may, if it has followed the procedures
10 in conformance with this Act, retire those obligations from
11 funds in the special tax allocation fund in amounts and in such
12 manner as if those obligations had been issued pursuant to the
13 provisions of this Act.

14 No obligations issued pursuant to this Act shall be
15 regarded as indebtedness of the municipality issuing those
16 obligations or any other taxing district for the purpose of any
17 limitation imposed by law.

18 Obligations issued pursuant to this Act shall not be
19 subject to the provisions of "An Act to authorize public
20 corporations to issue bonds, other evidences of indebtedness
21 and tax anticipation warrants subject to interest rate
22 limitations set forth therein", approved May 26, 1970, as
23 amended.

24 (Source: P.A. 86-38.)

25 (20 ILCS 620/9) (from Ch. 67 1/2, par. 1009)

1 Sec. 9. Powers of municipalities. In addition to powers
2 which it may now have, any municipality has the power under
3 this Act:

4 (a) To make and enter into all contracts necessary or
5 incidental to the implementation and furtherance of an economic
6 development plan.

7 (b) Within an economic development project area, to acquire
8 by purchase, donation, lease or eminent domain, and to own,
9 convey, lease, mortgage or dispose of land and other real or
10 personal property or rights or interests therein; and to grant
11 or acquire licenses, easements and options with respect
12 thereto, all in the manner and at such price the municipality
13 determines is reasonably necessary to achieve the objectives of
14 the economic development project. No conveyance, lease,
15 mortgage, disposition of land or other property acquired by the
16 municipality, or agreement relating to the development of
17 property, shall be made or executed except pursuant to prior
18 official action of the municipality. No conveyance, lease,
19 mortgage or other disposition of land, and no agreement
20 relating to the development of property, shall be made without
21 making public disclosure of the terms and disposition of all
22 bids and proposals submitted to the municipality in connection
23 therewith.

24 (c) To clear any area within an economic development
25 project area by demolition or removal of any existing
26 buildings, structures, fixtures, utilities or improvements,

1 and to clear and grade land.

2 (d) To install, repair, construct, reconstruct or relocate
3 public streets, public utilities, and other public site
4 improvements within or without an economic development project
5 area which are essential to the preparation of an economic
6 development project area for use in accordance with an economic
7 development plan.

8 (e) To renovate, rehabilitate, reconstruct, relocate,
9 repair or remodel any existing buildings, improvements, and
10 fixtures within an economic development project area.

11 (f) To construct, acquire, and operate public
12 improvements, including but not limited to, publicly-owned
13 buildings, structures, works, utilities or fixtures within any
14 economic development project area, subject to the restrictions
15 of item (5) of subsection (e) of Section 3 of this Act.

16 (g) To issue obligations as provided in this Act ~~provided~~.

17 (h) To fix, charge and collect fees, rents and charges for
18 the use of any building, facility or property or any portion
19 thereof owned or leased by the municipality within an economic
20 development project area.

21 (i) To accept grants, guarantees, donations of property or
22 labor, or any other thing of value for use in connection with
23 an economic development project.

24 (j) To pay or cause to be paid economic development project
25 costs. Any payments to be made by the municipality to
26 developers or other nongovernmental persons for economic

1 development project costs incurred by such developer or other
2 nongovernmental person shall be made only pursuant to the prior
3 official action of the municipality evidencing an intent to pay
4 or cause to be paid such economic development project costs. A
5 municipality is not required to obtain any right, title or
6 interest in any real or personal property in order to pay
7 economic development project costs associated with such
8 property. The municipality shall adopt such accounting
9 procedures as may be necessary to determine that such economic
10 development project costs are properly paid.

11 (k) To exercise any and all other powers necessary to
12 effectuate the purposes of this Act.

13 (l) To create a commission of not less than 5 or more than
14 15 persons to be appointed by the mayor or president of the
15 municipality with the consent of the majority of the corporate
16 authorities of the municipality. Members of a commission shall
17 be appointed for initial terms of 1, 2, 3, 4, and 5 years,
18 respectively, in such numbers as to provide that the terms of
19 not more than 1/3 of all such members shall expire in any one
20 year. Their successors shall be appointed for a term of 5
21 years. The commission, subject to approval of the corporate
22 authorities, may exercise the powers enumerated in this
23 Section. The commission shall also have the power to hold the
24 public hearings required by this Act and make recommendations
25 to the corporate authorities concerning the approval of
26 economic development plans, the establishment of economic

1 development project areas, and the adoption of tax increment
2 allocation financing for economic development project areas.

3 (Source: P.A. 91-357, eff. 7-29-99.)

4 (20 ILCS 620/11) (from Ch. 67 1/2, par. 1011)

5 Sec. 11. Payment of project costs; revenues from
6 governmental ~~municipal~~ property. Revenues received by a taxing
7 district ~~municipality~~ from any property, building or facility
8 owned, leased or operated by the taxing district ~~municipality~~
9 or any agency or authority established by the taxing district
10 ~~municipality~~ may be used to pay economic development project
11 costs, or reduce outstanding obligations of the taxing district
12 ~~municipality~~ incurred under this Act for economic development
13 project costs. The taxing district ~~municipality~~ may place those
14 revenues in the special tax allocation fund which shall be held
15 by the ~~municipal~~ treasurer of the taxing district or other
16 person designated by the taxing district ~~municipality~~. Revenue
17 received by a taxing district ~~the municipality~~ from the sale or
18 other disposition of real or personal property or rights or
19 interests therein acquired by a taxing district ~~the~~
20 ~~municipality~~ with the proceeds of obligations funded by tax
21 increment allocation financing may be used to acquire and
22 operate other governmental property that is within the economic
23 development project area or that provides services within the
24 economic development project area, subject to the restrictions
25 of item (5) of subsection (e) of Section 3 of this Act. ~~shall~~

1 ~~be deposited by the municipality in the special tax allocation~~
2 ~~fund.~~

3 (Source: P.A. 86-38.)

4 Section 15-7. The New Markets Development Program Act is
5 amended by changing Section 50 as follows:

6 (20 ILCS 663/50)

7 Sec. 50. Sunset. For fiscal years following fiscal year
8 2017 ~~2012~~, qualified equity investments shall not be made under
9 this Act unless reauthorization is made pursuant to this
10 Section. For all fiscal years following fiscal year 2017 ~~2012~~,
11 unless the General Assembly adopts a joint resolution granting
12 authority to the Department to approve qualified equity
13 investments for the Illinois new markets development program
14 and clearly describing the amount of tax credits available for
15 the next fiscal year, or otherwise complies with the provisions
16 of this Section, no qualified equity investments may be
17 permitted to be made under this Act. The amount of available
18 tax credits contained in such a resolution shall not exceed the
19 limitation provided under Section 20. Nothing in this Section
20 precludes a taxpayer who makes a qualified equity investment
21 prior to the expiration of authority to make qualified equity
22 investments from claiming tax credits relating to that
23 qualified equity investment for each applicable credit
24 allowance date.

1 (Source: P.A. 95-1024, eff. 12-31-08.)

2 Section 15-10. The Illinois Income Tax Act is amended by
3 changing Sections 201, 207, 250, 304, 804, and 1501 as follows:

4 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

5 Sec. 201. Tax Imposed.

6 (a) In general. A tax measured by net income is hereby
7 imposed on every individual, corporation, trust and estate for
8 each taxable year ending after July 31, 1969 on the privilege
9 of earning or receiving income in or as a resident of this
10 State. Such tax shall be in addition to all other occupation or
11 privilege taxes imposed by this State or by any municipal
12 corporation or political subdivision thereof.

13 (b) Rates. The tax imposed by subsection (a) of this
14 Section shall be determined as follows, except as adjusted by
15 subsection (d-1):

16 (1) In the case of an individual, trust or estate, for
17 taxable years ending prior to July 1, 1989, an amount equal
18 to 2 1/2% of the taxpayer's net income for the taxable
19 year.

20 (2) In the case of an individual, trust or estate, for
21 taxable years beginning prior to July 1, 1989 and ending
22 after June 30, 1989, an amount equal to the sum of (i) 2
23 1/2% of the taxpayer's net income for the period prior to
24 July 1, 1989, as calculated under Section 202.3, and (ii)

1 3% of the taxpayer's net income for the period after June
2 30, 1989, as calculated under Section 202.3.

3 (3) In the case of an individual, trust or estate, for
4 taxable years beginning after June 30, 1989, and ending
5 prior to January 1, 2011, an amount equal to 3% of the
6 taxpayer's net income for the taxable year.

7 (4) In the case of an individual, trust, or estate, for
8 taxable years beginning prior to January 1, 2011, and
9 ending after December 31, 2010, an amount equal to the sum
10 of (i) 3% of the taxpayer's net income for the period prior
11 to January 1, 2011, as calculated under Section 202.5, and
12 (ii) 5% of the taxpayer's net income for the period after
13 December 31, 2010, as calculated under Section 202.5.

14 (5) In the case of an individual, trust, or estate, for
15 taxable years beginning on or after January 1, 2011, and
16 ending prior to January 1, 2015, an amount equal to 5% of
17 the taxpayer's net income for the taxable year.

18 (5.1) In the case of an individual, trust, or estate,
19 for taxable years beginning prior to January 1, 2015, and
20 ending after December 31, 2014, an amount equal to the sum
21 of (i) 5% of the taxpayer's net income for the period prior
22 to January 1, 2015, as calculated under Section 202.5, and
23 (ii) 3.75% of the taxpayer's net income for the period
24 after December 31, 2014, as calculated under Section 202.5.

25 (5.2) In the case of an individual, trust, or estate,
26 for taxable years beginning on or after January 1, 2015,

1 and ending prior to January 1, 2025, an amount equal to
2 3.75% of the taxpayer's net income for the taxable year.

3 (5.3) In the case of an individual, trust, or estate,
4 for taxable years beginning prior to January 1, 2025, and
5 ending after December 31, 2024, an amount equal to the sum
6 of (i) 3.75% of the taxpayer's net income for the period
7 prior to January 1, 2025, as calculated under Section
8 202.5, and (ii) 3.25% of the taxpayer's net income for the
9 period after December 31, 2024, as calculated under Section
10 202.5.

11 (5.4) In the case of an individual, trust, or estate,
12 for taxable years beginning on or after January 1, 2025, an
13 amount equal to 3.25% of the taxpayer's net income for the
14 taxable year.

15 (6) In the case of a corporation, for taxable years
16 ending prior to July 1, 1989, an amount equal to 4% of the
17 taxpayer's net income for the taxable year.

18 (7) In the case of a corporation, for taxable years
19 beginning prior to July 1, 1989 and ending after June 30,
20 1989, an amount equal to the sum of (i) 4% of the
21 taxpayer's net income for the period prior to July 1, 1989,
22 as calculated under Section 202.3, and (ii) 4.8% of the
23 taxpayer's net income for the period after June 30, 1989,
24 as calculated under Section 202.3.

25 (8) In the case of a corporation, for taxable years
26 beginning after June 30, 1989, and ending prior to January

1 1, 2011, an amount equal to 4.8% of the taxpayer's net
2 income for the taxable year.

3 (9) In the case of a corporation, for taxable years
4 beginning prior to January 1, 2011, and ending after
5 December 31, 2010, an amount equal to the sum of (i) 4.8%
6 of the taxpayer's net income for the period prior to
7 January 1, 2011, as calculated under Section 202.5, and
8 (ii) 7% of the taxpayer's net income for the period after
9 December 31, 2010, as calculated under Section 202.5.

10 (10) In the case of a corporation, for taxable years
11 beginning on or after January 1, 2011, and ending prior to
12 January 1, 2015, an amount equal to 7% of the taxpayer's
13 net income for the taxable year.

14 (11) In the case of a corporation, for taxable years
15 beginning prior to January 1, 2015, and ending after
16 December 31, 2014, an amount equal to the sum of (i) 7% of
17 the taxpayer's net income for the period prior to January
18 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
19 of the taxpayer's net income for the period after December
20 31, 2014, as calculated under Section 202.5.

21 (12) In the case of a corporation, for taxable years
22 beginning on or after January 1, 2015, and ending prior to
23 January 1, 2025, an amount equal to 5.25% of the taxpayer's
24 net income for the taxable year.

25 (13) In the case of a corporation, for taxable years
26 beginning prior to January 1, 2025, and ending after

1 December 31, 2024, an amount equal to the sum of (i) 5.25%
2 of the taxpayer's net income for the period prior to
3 January 1, 2025, as calculated under Section 202.5, and
4 (ii) 4.8% of the taxpayer's net income for the period after
5 December 31, 2024, as calculated under Section 202.5.

6 (14) In the case of a corporation, for taxable years
7 beginning on or after January 1, 2025, an amount equal to
8 4.8% of the taxpayer's net income for the taxable year.

9 The rates under this subsection (b) are subject to the
10 provisions of Section 201.5.

11 (c) Personal Property Tax Replacement Income Tax.
12 Beginning on July 1, 1979 and thereafter, in addition to such
13 income tax, there is also hereby imposed the Personal Property
14 Tax Replacement Income Tax measured by net income on every
15 corporation (including Subchapter S corporations), partnership
16 and trust, for each taxable year ending after June 30, 1979.
17 Such taxes are imposed on the privilege of earning or receiving
18 income in or as a resident of this State. The Personal Property
19 Tax Replacement Income Tax shall be in addition to the income
20 tax imposed by subsections (a) and (b) of this Section and in
21 addition to all other occupation or privilege taxes imposed by
22 this State or by any municipal corporation or political
23 subdivision thereof.

24 (d) Additional Personal Property Tax Replacement Income
25 Tax Rates. The personal property tax replacement income tax
26 imposed by this subsection and subsection (c) of this Section

1 in the case of a corporation, other than a Subchapter S
2 corporation and except as adjusted by subsection (d-1), shall
3 be an additional amount equal to 2.85% of such taxpayer's net
4 income for the taxable year, except that beginning on January
5 1, 1981, and thereafter, the rate of 2.85% specified in this
6 subsection shall be reduced to 2.5%, and in the case of a
7 partnership, trust or a Subchapter S corporation shall be an
8 additional amount equal to 1.5% of such taxpayer's net income
9 for the taxable year.

10 (d-1) Rate reduction for certain foreign insurers. In the
11 case of a foreign insurer, as defined by Section 35A-5 of the
12 Illinois Insurance Code, whose state or country of domicile
13 imposes on insurers domiciled in Illinois a retaliatory tax
14 (excluding any insurer whose premiums from reinsurance assumed
15 are 50% or more of its total insurance premiums as determined
16 under paragraph (2) of subsection (b) of Section 304, except
17 that for purposes of this determination premiums from
18 reinsurance do not include premiums from inter-affiliate
19 reinsurance arrangements), beginning with taxable years ending
20 on or after December 31, 1999, the sum of the rates of tax
21 imposed by subsections (b) and (d) shall be reduced (but not
22 increased) to the rate at which the total amount of tax imposed
23 under this Act, net of all credits allowed under this Act,
24 shall equal (i) the total amount of tax that would be imposed
25 on the foreign insurer's net income allocable to Illinois for
26 the taxable year by such foreign insurer's state or country of

1 domicile if that net income were subject to all income taxes
2 and taxes measured by net income imposed by such foreign
3 insurer's state or country of domicile, net of all credits
4 allowed or (ii) a rate of zero if no such tax is imposed on such
5 income by the foreign insurer's state of domicile. For the
6 purposes of this subsection (d-1), an inter-affiliate includes
7 a mutual insurer under common management.

8 (1) For the purposes of subsection (d-1), in no event
9 shall the sum of the rates of tax imposed by subsections
10 (b) and (d) be reduced below the rate at which the sum of:

11 (A) the total amount of tax imposed on such foreign
12 insurer under this Act for a taxable year, net of all
13 credits allowed under this Act, plus

14 (B) the privilege tax imposed by Section 409 of the
15 Illinois Insurance Code, the fire insurance company
16 tax imposed by Section 12 of the Fire Investigation
17 Act, and the fire department taxes imposed under
18 Section 11-10-1 of the Illinois Municipal Code,
19 equals 1.25% for taxable years ending prior to December 31,
20 2003, or 1.75% for taxable years ending on or after
21 December 31, 2003, of the net taxable premiums written for
22 the taxable year, as described by subsection (1) of Section
23 409 of the Illinois Insurance Code. This paragraph will in
24 no event increase the rates imposed under subsections (b)
25 and (d).

26 (2) Any reduction in the rates of tax imposed by this

1 subsection shall be applied first against the rates imposed
2 by subsection (b) and only after the tax imposed by
3 subsection (a) net of all credits allowed under this
4 Section other than the credit allowed under subsection (i)
5 has been reduced to zero, against the rates imposed by
6 subsection (d).

7 This subsection (d-1) is exempt from the provisions of
8 Section 250.

9 (e) Investment credit. A taxpayer shall be allowed a credit
10 against the Personal Property Tax Replacement Income Tax for
11 investment in qualified property.

12 (1) A taxpayer shall be allowed a credit equal to .5%
13 of the basis of qualified property placed in service during
14 the taxable year, provided such property is placed in
15 service on or after July 1, 1984. There shall be allowed an
16 additional credit equal to .5% of the basis of qualified
17 property placed in service during the taxable year,
18 provided such property is placed in service on or after
19 July 1, 1986, and the taxpayer's base employment within
20 Illinois has increased by 1% or more over the preceding
21 year as determined by the taxpayer's employment records
22 filed with the Illinois Department of Employment Security.
23 Taxpayers who are new to Illinois shall be deemed to have
24 met the 1% growth in base employment for the first year in
25 which they file employment records with the Illinois
26 Department of Employment Security. The provisions added to

1 this Section by Public Act 85-1200 (and restored by Public
2 Act 87-895) shall be construed as declaratory of existing
3 law and not as a new enactment. If, in any year, the
4 increase in base employment within Illinois over the
5 preceding year is less than 1%, the additional credit shall
6 be limited to that percentage times a fraction, the
7 numerator of which is .5% and the denominator of which is
8 1%, but shall not exceed .5%. The investment credit shall
9 not be allowed to the extent that it would reduce a
10 taxpayer's liability in any tax year below zero, nor may
11 any credit for qualified property be allowed for any year
12 other than the year in which the property was placed in
13 service in Illinois. For tax years ending on or after
14 December 31, 1987, and on or before December 31, 1988, the
15 credit shall be allowed for the tax year in which the
16 property is placed in service, or, if the amount of the
17 credit exceeds the tax liability for that year, whether it
18 exceeds the original liability or the liability as later
19 amended, such excess may be carried forward and applied to
20 the tax liability of the 5 taxable years following the
21 excess credit years if the taxpayer (i) makes investments
22 which cause the creation of a minimum of 2,000 full-time
23 equivalent jobs in Illinois, (ii) is located in an
24 enterprise zone established pursuant to the Illinois
25 Enterprise Zone Act and (iii) is certified by the
26 Department of Commerce and Community Affairs (now

1 Department of Commerce and Economic Opportunity) as
2 complying with the requirements specified in clause (i) and
3 (ii) by July 1, 1986. The Department of Commerce and
4 Community Affairs (now Department of Commerce and Economic
5 Opportunity) shall notify the Department of Revenue of all
6 such certifications immediately. For tax years ending
7 after December 31, 1988, the credit shall be allowed for
8 the tax year in which the property is placed in service,
9 or, if the amount of the credit exceeds the tax liability
10 for that year, whether it exceeds the original liability or
11 the liability as later amended, such excess may be carried
12 forward and applied to the tax liability of the 5 taxable
13 years following the excess credit years. The credit shall
14 be applied to the earliest year for which there is a
15 liability. If there is credit from more than one tax year
16 that is available to offset a liability, earlier credit
17 shall be applied first.

18 (2) The term "qualified property" means property
19 which:

20 (A) is tangible, whether new or used, including
21 buildings and structural components of buildings and
22 signs that are real property, but not including land or
23 improvements to real property that are not a structural
24 component of a building such as landscaping, sewer
25 lines, local access roads, fencing, parking lots, and
26 other appurtenances;

1 (B) is depreciable pursuant to Section 167 of the
2 Internal Revenue Code, except that "3-year property"
3 as defined in Section 168(c)(2)(A) of that Code is not
4 eligible for the credit provided by this subsection
5 (e);

6 (C) is acquired by purchase as defined in Section
7 179(d) of the Internal Revenue Code;

8 (D) is used in Illinois by a taxpayer who is
9 primarily engaged in manufacturing, or in mining coal
10 or fluorite, or in retailing, or was placed in service
11 on or after July 1, 2006 in a River Edge Redevelopment
12 Zone established pursuant to the River Edge
13 Redevelopment Zone Act; and

14 (E) has not previously been used in Illinois in
15 such a manner and by such a person as would qualify for
16 the credit provided by this subsection (e) or
17 subsection (f).

18 (3) For purposes of this subsection (e),
19 "manufacturing" means the material staging and production
20 of tangible personal property by procedures commonly
21 regarded as manufacturing, processing, fabrication, or
22 assembling which changes some existing material into new
23 shapes, new qualities, or new combinations. For purposes of
24 this subsection (e) the term "mining" shall have the same
25 meaning as the term "mining" in Section 613(c) of the
26 Internal Revenue Code. For purposes of this subsection (e),

1 the term "retailing" means the sale of tangible personal
2 property for use or consumption and not for resale, or
3 services rendered in conjunction with the sale of tangible
4 personal property for use or consumption and not for
5 resale. For purposes of this subsection (e), "tangible
6 personal property" has the same meaning as when that term
7 is used in the Retailers' Occupation Tax Act, and, for
8 taxable years ending after December 31, 2008, does not
9 include the generation, transmission, or distribution of
10 electricity.

11 (4) The basis of qualified property shall be the basis
12 used to compute the depreciation deduction for federal
13 income tax purposes.

14 (5) If the basis of the property for federal income tax
15 depreciation purposes is increased after it has been placed
16 in service in Illinois by the taxpayer, the amount of such
17 increase shall be deemed property placed in service on the
18 date of such increase in basis.

19 (6) The term "placed in service" shall have the same
20 meaning as under Section 46 of the Internal Revenue Code.

21 (7) If during any taxable year, any property ceases to
22 be qualified property in the hands of the taxpayer within
23 48 months after being placed in service, or the situs of
24 any qualified property is moved outside Illinois within 48
25 months after being placed in service, the Personal Property
26 Tax Replacement Income Tax for such taxable year shall be

1 increased. Such increase shall be determined by (i)
2 recomputing the investment credit which would have been
3 allowed for the year in which credit for such property was
4 originally allowed by eliminating such property from such
5 computation and, (ii) subtracting such recomputed credit
6 from the amount of credit previously allowed. For the
7 purposes of this paragraph (7), a reduction of the basis of
8 qualified property resulting from a redetermination of the
9 purchase price shall be deemed a disposition of qualified
10 property to the extent of such reduction.

11 (8) Unless the investment credit is extended by law,
12 the basis of qualified property shall not include costs
13 incurred after December 31, 2018 ~~2013~~, except for costs
14 incurred pursuant to a binding contract entered into on or
15 before December 31, 2018 ~~2013~~.

16 (9) Each taxable year ending before December 31, 2000,
17 a partnership may elect to pass through to its partners the
18 credits to which the partnership is entitled under this
19 subsection (e) for the taxable year. A partner may use the
20 credit allocated to him or her under this paragraph only
21 against the tax imposed in subsections (c) and (d) of this
22 Section. If the partnership makes that election, those
23 credits shall be allocated among the partners in the
24 partnership in accordance with the rules set forth in
25 Section 704(b) of the Internal Revenue Code, and the rules
26 promulgated under that Section, and the allocated amount of

1 the credits shall be allowed to the partners for that
2 taxable year. The partnership shall make this election on
3 its Personal Property Tax Replacement Income Tax return for
4 that taxable year. The election to pass through the credits
5 shall be irrevocable.

6 For taxable years ending on or after December 31, 2000,
7 a partner that qualifies its partnership for a subtraction
8 under subparagraph (I) of paragraph (2) of subsection (d)
9 of Section 203 or a shareholder that qualifies a Subchapter
10 S corporation for a subtraction under subparagraph (S) of
11 paragraph (2) of subsection (b) of Section 203 shall be
12 allowed a credit under this subsection (e) equal to its
13 share of the credit earned under this subsection (e) during
14 the taxable year by the partnership or Subchapter S
15 corporation, determined in accordance with the
16 determination of income and distributive share of income
17 under Sections 702 and 704 and Subchapter S of the Internal
18 Revenue Code. This paragraph is exempt from the provisions
19 of Section 250.

20 (f) Investment credit; Enterprise Zone; River Edge
21 Redevelopment Zone.

22 (1) A taxpayer shall be allowed a credit against the
23 tax imposed by subsections (a) and (b) of this Section for
24 investment in qualified property which is placed in service
25 in an Enterprise Zone created pursuant to the Illinois
26 Enterprise Zone Act or, for property placed in service on

1 or after July 1, 2006, a River Edge Redevelopment Zone
2 established pursuant to the River Edge Redevelopment Zone
3 Act. For partners, shareholders of Subchapter S
4 corporations, and owners of limited liability companies,
5 if the liability company is treated as a partnership for
6 purposes of federal and State income taxation, there shall
7 be allowed a credit under this subsection (f) to be
8 determined in accordance with the determination of income
9 and distributive share of income under Sections 702 and 704
10 and Subchapter S of the Internal Revenue Code. The credit
11 shall be .5% of the basis for such property. The credit
12 shall be available only in the taxable year in which the
13 property is placed in service in the Enterprise Zone or
14 River Edge Redevelopment Zone and shall not be allowed to
15 the extent that it would reduce a taxpayer's liability for
16 the tax imposed by subsections (a) and (b) of this Section
17 to below zero. For tax years ending on or after December
18 31, 1985, the credit shall be allowed for the tax year in
19 which the property is placed in service, or, if the amount
20 of the credit exceeds the tax liability for that year,
21 whether it exceeds the original liability or the liability
22 as later amended, such excess may be carried forward and
23 applied to the tax liability of the 5 taxable years
24 following the excess credit year. The credit shall be
25 applied to the earliest year for which there is a
26 liability. If there is credit from more than one tax year

1 that is available to offset a liability, the credit
2 accruing first in time shall be applied first.

3 (2) The term qualified property means property which:

4 (A) is tangible, whether new or used, including
5 buildings and structural components of buildings;

6 (B) is depreciable pursuant to Section 167 of the
7 Internal Revenue Code, except that "3-year property"
8 as defined in Section 168(c)(2)(A) of that Code is not
9 eligible for the credit provided by this subsection
10 (f);

11 (C) is acquired by purchase as defined in Section
12 179(d) of the Internal Revenue Code;

13 (D) is used in the Enterprise Zone or River Edge
14 Redevelopment Zone by the taxpayer; and

15 (E) has not been previously used in Illinois in
16 such a manner and by such a person as would qualify for
17 the credit provided by this subsection (f) or
18 subsection (e).

19 (3) The basis of qualified property shall be the basis
20 used to compute the depreciation deduction for federal
21 income tax purposes.

22 (4) If the basis of the property for federal income tax
23 depreciation purposes is increased after it has been placed
24 in service in the Enterprise Zone or River Edge
25 Redevelopment Zone by the taxpayer, the amount of such
26 increase shall be deemed property placed in service on the

1 date of such increase in basis.

2 (5) The term "placed in service" shall have the same
3 meaning as under Section 46 of the Internal Revenue Code.

4 (6) If during any taxable year, any property ceases to
5 be qualified property in the hands of the taxpayer within
6 48 months after being placed in service, or the situs of
7 any qualified property is moved outside the Enterprise Zone
8 or River Edge Redevelopment Zone within 48 months after
9 being placed in service, the tax imposed under subsections
10 (a) and (b) of this Section for such taxable year shall be
11 increased. Such increase shall be determined by (i)
12 recomputing the investment credit which would have been
13 allowed for the year in which credit for such property was
14 originally allowed by eliminating such property from such
15 computation, and (ii) subtracting such recomputed credit
16 from the amount of credit previously allowed. For the
17 purposes of this paragraph (6), a reduction of the basis of
18 qualified property resulting from a redetermination of the
19 purchase price shall be deemed a disposition of qualified
20 property to the extent of such reduction.

21 (7) There shall be allowed an additional credit equal
22 to 0.5% of the basis of qualified property placed in
23 service during the taxable year in a River Edge
24 Redevelopment Zone, provided such property is placed in
25 service on or after July 1, 2006, and the taxpayer's base
26 employment within Illinois has increased by 1% or more over

1 the preceding year as determined by the taxpayer's
2 employment records filed with the Illinois Department of
3 Employment Security. Taxpayers who are new to Illinois
4 shall be deemed to have met the 1% growth in base
5 employment for the first year in which they file employment
6 records with the Illinois Department of Employment
7 Security. If, in any year, the increase in base employment
8 within Illinois over the preceding year is less than 1%,
9 the additional credit shall be limited to that percentage
10 times a fraction, the numerator of which is 0.5% and the
11 denominator of which is 1%, but shall not exceed 0.5%.

12 (g) Jobs Tax Credit; Enterprise Zone, River Edge
13 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

14 (1) A taxpayer conducting a trade or business in an
15 enterprise zone or a High Impact Business designated by the
16 Department of Commerce and Economic Opportunity or for
17 taxable years ending on or after December 31, 2006, in a
18 River Edge Redevelopment Zone conducting a trade or
19 business in a federally designated Foreign Trade Zone or
20 Sub-Zone shall be allowed a credit against the tax imposed
21 by subsections (a) and (b) of this Section in the amount of
22 \$500 per eligible employee hired to work in the zone during
23 the taxable year.

24 (2) To qualify for the credit:

25 (A) the taxpayer must hire 5 or more eligible
26 employees to work in an enterprise zone, River Edge

1 Redevelopment Zone, or federally designated Foreign
2 Trade Zone or Sub-Zone during the taxable year;

3 (B) the taxpayer's total employment within the
4 enterprise zone, River Edge Redevelopment Zone, or
5 federally designated Foreign Trade Zone or Sub-Zone
6 must increase by 5 or more full-time employees beyond
7 the total employed in that zone at the end of the
8 previous tax year for which a jobs tax credit under
9 this Section was taken, or beyond the total employed by
10 the taxpayer as of December 31, 1985, whichever is
11 later; and

12 (C) the eligible employees must be employed 180
13 consecutive days in order to be deemed hired for
14 purposes of this subsection.

15 (3) An "eligible employee" means an employee who is:

16 (A) Certified by the Department of Commerce and
17 Economic Opportunity as "eligible for services"
18 pursuant to regulations promulgated in accordance with
19 Title II of the Job Training Partnership Act, Training
20 Services for the Disadvantaged or Title III of the Job
21 Training Partnership Act, Employment and Training
22 Assistance for Dislocated Workers Program.

23 (B) Hired after the enterprise zone, River Edge
24 Redevelopment Zone, or federally designated Foreign
25 Trade Zone or Sub-Zone was designated or the trade or
26 business was located in that zone, whichever is later.

1 (C) Employed in the enterprise zone, River Edge
2 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
3 An employee is employed in an enterprise zone or
4 federally designated Foreign Trade Zone or Sub-Zone if
5 his services are rendered there or it is the base of
6 operations for the services performed.

7 (D) A full-time employee working 30 or more hours
8 per week.

9 (4) For tax years ending on or after December 31, 1985
10 and prior to December 31, 1988, the credit shall be allowed
11 for the tax year in which the eligible employees are hired.
12 For tax years ending on or after December 31, 1988, the
13 credit shall be allowed for the tax year immediately
14 following the tax year in which the eligible employees are
15 hired. If the amount of the credit exceeds the tax
16 liability for that year, whether it exceeds the original
17 liability or the liability as later amended, such excess
18 may be carried forward and applied to the tax liability of
19 the 5 taxable years following the excess credit year. The
20 credit shall be applied to the earliest year for which
21 there is a liability. If there is credit from more than one
22 tax year that is available to offset a liability, earlier
23 credit shall be applied first.

24 (5) The Department of Revenue shall promulgate such
25 rules and regulations as may be deemed necessary to carry
26 out the purposes of this subsection (g).

1 (6) The credit shall be available for eligible
2 employees hired on or after January 1, 1986.

3 (h) Investment credit; High Impact Business.

4 (1) Subject to subsections (b) and (b-5) of Section 5.5
5 of the Illinois Enterprise Zone Act, a taxpayer shall be
6 allowed a credit against the tax imposed by subsections (a)
7 and (b) of this Section for investment in qualified
8 property which is placed in service by a Department of
9 Commerce and Economic Opportunity designated High Impact
10 Business. The credit shall be .5% of the basis for such
11 property. The credit shall not be available (i) until the
12 minimum investments in qualified property set forth in
13 subdivision (a)(3)(A) of Section 5.5 of the Illinois
14 Enterprise Zone Act have been satisfied or (ii) until the
15 time authorized in subsection (b-5) of the Illinois
16 Enterprise Zone Act for entities designated as High Impact
17 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
18 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
19 Act, and shall not be allowed to the extent that it would
20 reduce a taxpayer's liability for the tax imposed by
21 subsections (a) and (b) of this Section to below zero. The
22 credit applicable to such investments shall be taken in the
23 taxable year in which such investments have been completed.
24 The credit for additional investments beyond the minimum
25 investment by a designated high impact business authorized
26 under subdivision (a)(3)(A) of Section 5.5 of the Illinois

1 Enterprise Zone Act shall be available only in the taxable
2 year in which the property is placed in service and shall
3 not be allowed to the extent that it would reduce a
4 taxpayer's liability for the tax imposed by subsections (a)
5 and (b) of this Section to below zero. For tax years ending
6 on or after December 31, 1987, the credit shall be allowed
7 for the tax year in which the property is placed in
8 service, or, if the amount of the credit exceeds the tax
9 liability for that year, whether it exceeds the original
10 liability or the liability as later amended, such excess
11 may be carried forward and applied to the tax liability of
12 the 5 taxable years following the excess credit year. The
13 credit shall be applied to the earliest year for which
14 there is a liability. If there is credit from more than one
15 tax year that is available to offset a liability, the
16 credit accruing first in time shall be applied first.

17 Changes made in this subdivision (h) (1) by Public Act
18 88-670 restore changes made by Public Act 85-1182 and
19 reflect existing law.

20 (2) The term qualified property means property which:

21 (A) is tangible, whether new or used, including
22 buildings and structural components of buildings;

23 (B) is depreciable pursuant to Section 167 of the
24 Internal Revenue Code, except that "3-year property"
25 as defined in Section 168(c) (2) (A) of that Code is not
26 eligible for the credit provided by this subsection

1 (h);

2 (C) is acquired by purchase as defined in Section
3 179(d) of the Internal Revenue Code; and

4 (D) is not eligible for the Enterprise Zone
5 Investment Credit provided by subsection (f) of this
6 Section.

7 (3) The basis of qualified property shall be the basis
8 used to compute the depreciation deduction for federal
9 income tax purposes.

10 (4) If the basis of the property for federal income tax
11 depreciation purposes is increased after it has been placed
12 in service in a federally designated Foreign Trade Zone or
13 Sub-Zone located in Illinois by the taxpayer, the amount of
14 such increase shall be deemed property placed in service on
15 the date of such increase in basis.

16 (5) The term "placed in service" shall have the same
17 meaning as under Section 46 of the Internal Revenue Code.

18 (6) If during any taxable year ending on or before
19 December 31, 1996, any property ceases to be qualified
20 property in the hands of the taxpayer within 48 months
21 after being placed in service, or the situs of any
22 qualified property is moved outside Illinois within 48
23 months after being placed in service, the tax imposed under
24 subsections (a) and (b) of this Section for such taxable
25 year shall be increased. Such increase shall be determined
26 by (i) recomputing the investment credit which would have

1 been allowed for the year in which credit for such property
2 was originally allowed by eliminating such property from
3 such computation, and (ii) subtracting such recomputed
4 credit from the amount of credit previously allowed. For
5 the purposes of this paragraph (6), a reduction of the
6 basis of qualified property resulting from a
7 redetermination of the purchase price shall be deemed a
8 disposition of qualified property to the extent of such
9 reduction.

10 (7) Beginning with tax years ending after December 31,
11 1996, if a taxpayer qualifies for the credit under this
12 subsection (h) and thereby is granted a tax abatement and
13 the taxpayer relocates its entire facility in violation of
14 the explicit terms and length of the contract under Section
15 18-183 of the Property Tax Code, the tax imposed under
16 subsections (a) and (b) of this Section shall be increased
17 for the taxable year in which the taxpayer relocated its
18 facility by an amount equal to the amount of credit
19 received by the taxpayer under this subsection (h).

20 (i) Credit for Personal Property Tax Replacement Income
21 Tax. For tax years ending prior to December 31, 2003, a credit
22 shall be allowed against the tax imposed by subsections (a) and
23 (b) of this Section for the tax imposed by subsections (c) and
24 (d) of this Section. This credit shall be computed by
25 multiplying the tax imposed by subsections (c) and (d) of this
26 Section by a fraction, the numerator of which is base income

1 allocable to Illinois and the denominator of which is Illinois
2 base income, and further multiplying the product by the tax
3 rate imposed by subsections (a) and (b) of this Section.

4 Any credit earned on or after December 31, 1986 under this
5 subsection which is unused in the year the credit is computed
6 because it exceeds the tax liability imposed by subsections (a)
7 and (b) for that year (whether it exceeds the original
8 liability or the liability as later amended) may be carried
9 forward and applied to the tax liability imposed by subsections
10 (a) and (b) of the 5 taxable years following the excess credit
11 year, provided that no credit may be carried forward to any
12 year ending on or after December 31, 2003. This credit shall be
13 applied first to the earliest year for which there is a
14 liability. If there is a credit under this subsection from more
15 than one tax year that is available to offset a liability the
16 earliest credit arising under this subsection shall be applied
17 first.

18 If, during any taxable year ending on or after December 31,
19 1986, the tax imposed by subsections (c) and (d) of this
20 Section for which a taxpayer has claimed a credit under this
21 subsection (i) is reduced, the amount of credit for such tax
22 shall also be reduced. Such reduction shall be determined by
23 recomputing the credit to take into account the reduced tax
24 imposed by subsections (c) and (d). If any portion of the
25 reduced amount of credit has been carried to a different
26 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

1 year that is available to offset a liability the earliest
2 credit arising under this subsection shall be applied first. No
3 carryforward credit may be claimed in any tax year ending on or
4 after December 31, 2003.

5 (k) Research and development credit.

6 For tax years ending after July 1, 1990 and prior to
7 December 31, 2003, and beginning again for tax years ending on
8 or after December 31, 2004, and ending prior to January 1, 2016
9 ~~January 1, 2011~~, a taxpayer shall be allowed a credit against
10 the tax imposed by subsections (a) and (b) of this Section for
11 increasing research activities in this State. The credit
12 allowed against the tax imposed by subsections (a) and (b)
13 shall be equal to 6 1/2% of the qualifying expenditures for
14 increasing research activities in this State. For partners,
15 shareholders of subchapter S corporations, and owners of
16 limited liability companies, if the liability company is
17 treated as a partnership for purposes of federal and State
18 income taxation, there shall be allowed a credit under this
19 subsection to be determined in accordance with the
20 determination of income and distributive share of income under
21 Sections 702 and 704 and subchapter S of the Internal Revenue
22 Code.

23 For purposes of this subsection, "qualifying expenditures"
24 means the qualifying expenditures as defined for the federal
25 credit for increasing research activities which would be
26 allowable under Section 41 of the Internal Revenue Code and

1 which are conducted in this State, "qualifying expenditures for
2 increasing research activities in this State" means the excess
3 of qualifying expenditures for the taxable year in which
4 incurred over qualifying expenditures for the base period,
5 "qualifying expenditures for the base period" means the average
6 of the qualifying expenditures for each year in the base
7 period, and "base period" means the 3 taxable years immediately
8 preceding the taxable year for which the determination is being
9 made.

10 Any credit in excess of the tax liability for the taxable
11 year may be carried forward. A taxpayer may elect to have the
12 unused credit shown on its final completed return carried over
13 as a credit against the tax liability for the following 5
14 taxable years or until it has been fully used, whichever occurs
15 first; provided that no credit earned in a tax year ending
16 prior to December 31, 2003 may be carried forward to any year
17 ending on or after December 31, 2003, ~~and no credit may be~~
18 ~~carried forward to any taxable year ending on or after January~~
19 ~~1, 2011.~~

20 If an unused credit is carried forward to a given year from
21 2 or more earlier years, that credit arising in the earliest
22 year will be applied first against the tax liability for the
23 given year. If a tax liability for the given year still
24 remains, the credit from the next earliest year will then be
25 applied, and so on, until all credits have been used or no tax
26 liability for the given year remains. Any remaining unused

1 credit or credits then will be carried forward to the next
2 following year in which a tax liability is incurred, except
3 that no credit can be carried forward to a year which is more
4 than 5 years after the year in which the expense for which the
5 credit is given was incurred.

6 No inference shall be drawn from this amendatory Act of the
7 91st General Assembly in construing this Section for taxable
8 years beginning before January 1, 1999.

9 (1) Environmental Remediation Tax Credit.

10 (i) For tax years ending after December 31, 1997 and on
11 or before December 31, 2001, a taxpayer shall be allowed a
12 credit against the tax imposed by subsections (a) and (b)
13 of this Section for certain amounts paid for unreimbursed
14 eligible remediation costs, as specified in this
15 subsection. For purposes of this Section, "unreimbursed
16 eligible remediation costs" means costs approved by the
17 Illinois Environmental Protection Agency ("Agency") under
18 Section 58.14 of the Environmental Protection Act that were
19 paid in performing environmental remediation at a site for
20 which a No Further Remediation Letter was issued by the
21 Agency and recorded under Section 58.10 of the
22 Environmental Protection Act. The credit must be claimed
23 for the taxable year in which Agency approval of the
24 eligible remediation costs is granted. The credit is not
25 available to any taxpayer if the taxpayer or any related
26 party caused or contributed to, in any material respect, a

1 release of regulated substances on, in, or under the site
2 that was identified and addressed by the remedial action
3 pursuant to the Site Remediation Program of the
4 Environmental Protection Act. After the Pollution Control
5 Board rules are adopted pursuant to the Illinois
6 Administrative Procedure Act for the administration and
7 enforcement of Section 58.9 of the Environmental
8 Protection Act, determinations as to credit availability
9 for purposes of this Section shall be made consistent with
10 those rules. For purposes of this Section, "taxpayer"
11 includes a person whose tax attributes the taxpayer has
12 succeeded to under Section 381 of the Internal Revenue Code
13 and "related party" includes the persons disallowed a
14 deduction for losses by paragraphs (b), (c), and (f)(1) of
15 Section 267 of the Internal Revenue Code by virtue of being
16 a related taxpayer, as well as any of its partners. The
17 credit allowed against the tax imposed by subsections (a)
18 and (b) shall be equal to 25% of the unreimbursed eligible
19 remediation costs in excess of \$100,000 per site, except
20 that the \$100,000 threshold shall not apply to any site
21 contained in an enterprise zone as determined by the
22 Department of Commerce and Community Affairs (now
23 Department of Commerce and Economic Opportunity). The
24 total credit allowed shall not exceed \$40,000 per year with
25 a maximum total of \$150,000 per site. For partners and
26 shareholders of subchapter S corporations, there shall be

1 allowed a credit under this subsection to be determined in
2 accordance with the determination of income and
3 distributive share of income under Sections 702 and 704 and
4 subchapter S of the Internal Revenue Code.

5 (ii) A credit allowed under this subsection that is
6 unused in the year the credit is earned may be carried
7 forward to each of the 5 taxable years following the year
8 for which the credit is first earned until it is used. The
9 term "unused credit" does not include any amounts of
10 unreimbursed eligible remediation costs in excess of the
11 maximum credit per site authorized under paragraph (i).
12 This credit shall be applied first to the earliest year for
13 which there is a liability. If there is a credit under this
14 subsection from more than one tax year that is available to
15 offset a liability, the earliest credit arising under this
16 subsection shall be applied first. A credit allowed under
17 this subsection may be sold to a buyer as part of a sale of
18 all or part of the remediation site for which the credit
19 was granted. The purchaser of a remediation site and the
20 tax credit shall succeed to the unused credit and remaining
21 carry-forward period of the seller. To perfect the
22 transfer, the assignor shall record the transfer in the
23 chain of title for the site and provide written notice to
24 the Director of the Illinois Department of Revenue of the
25 assignor's intent to sell the remediation site and the
26 amount of the tax credit to be transferred as a portion of

1 the sale. In no event may a credit be transferred to any
2 taxpayer if the taxpayer or a related party would not be
3 eligible under the provisions of subsection (i).

4 (iii) For purposes of this Section, the term "site"
5 shall have the same meaning as under Section 58.2 of the
6 Environmental Protection Act.

7 (m) Education expense credit. Beginning with tax years
8 ending after December 31, 1999, a taxpayer who is the custodian
9 of one or more qualifying pupils shall be allowed a credit
10 against the tax imposed by subsections (a) and (b) of this
11 Section for qualified education expenses incurred on behalf of
12 the qualifying pupils. The credit shall be equal to 25% of
13 qualified education expenses, but in no event may the total
14 credit under this subsection claimed by a family that is the
15 custodian of qualifying pupils exceed \$500. In no event shall a
16 credit under this subsection reduce the taxpayer's liability
17 under this Act to less than zero. This subsection is exempt
18 from the provisions of Section 250 of this Act.

19 For purposes of this subsection:

20 "Qualifying pupils" means individuals who (i) are
21 residents of the State of Illinois, (ii) are under the age of
22 21 at the close of the school year for which a credit is
23 sought, and (iii) during the school year for which a credit is
24 sought were full-time pupils enrolled in a kindergarten through
25 twelfth grade education program at any school, as defined in
26 this subsection.

1 "Qualified education expense" means the amount incurred on
2 behalf of a qualifying pupil in excess of \$250 for tuition,
3 book fees, and lab fees at the school in which the pupil is
4 enrolled during the regular school year.

5 "School" means any public or nonpublic elementary or
6 secondary school in Illinois that is in compliance with Title
7 VI of the Civil Rights Act of 1964 and attendance at which
8 satisfies the requirements of Section 26-1 of the School Code,
9 except that nothing shall be construed to require a child to
10 attend any particular public or nonpublic school to qualify for
11 the credit under this Section.

12 "Custodian" means, with respect to qualifying pupils, an
13 Illinois resident who is a parent, the parents, a legal
14 guardian, or the legal guardians of the qualifying pupils.

15 (n) River Edge Redevelopment Zone site remediation tax
16 credit.

17 (i) For tax years ending on or after December 31, 2006,
18 a taxpayer shall be allowed a credit against the tax
19 imposed by subsections (a) and (b) of this Section for
20 certain amounts paid for unreimbursed eligible remediation
21 costs, as specified in this subsection. For purposes of
22 this Section, "unreimbursed eligible remediation costs"
23 means costs approved by the Illinois Environmental
24 Protection Agency ("Agency") under Section 58.14a of the
25 Environmental Protection Act that were paid in performing
26 environmental remediation at a site within a River Edge

1 Redevelopment Zone for which a No Further Remediation
2 Letter was issued by the Agency and recorded under Section
3 58.10 of the Environmental Protection Act. The credit must
4 be claimed for the taxable year in which Agency approval of
5 the eligible remediation costs is granted. The credit is
6 not available to any taxpayer if the taxpayer or any
7 related party caused or contributed to, in any material
8 respect, a release of regulated substances on, in, or under
9 the site that was identified and addressed by the remedial
10 action pursuant to the Site Remediation Program of the
11 Environmental Protection Act. Determinations as to credit
12 availability for purposes of this Section shall be made
13 consistent with rules adopted by the Pollution Control
14 Board pursuant to the Illinois Administrative Procedure
15 Act for the administration and enforcement of Section 58.9
16 of the Environmental Protection Act. For purposes of this
17 Section, "taxpayer" includes a person whose tax attributes
18 the taxpayer has succeeded to under Section 381 of the
19 Internal Revenue Code and "related party" includes the
20 persons disallowed a deduction for losses by paragraphs
21 (b), (c), and (f)(1) of Section 267 of the Internal Revenue
22 Code by virtue of being a related taxpayer, as well as any
23 of its partners. The credit allowed against the tax imposed
24 by subsections (a) and (b) shall be equal to 25% of the
25 unreimbursed eligible remediation costs in excess of
26 \$100,000 per site.

1 (ii) A credit allowed under this subsection that is
2 unused in the year the credit is earned may be carried
3 forward to each of the 5 taxable years following the year
4 for which the credit is first earned until it is used. This
5 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 (Source: P.A. 96-115, eff. 7-31-09; 96-116, eff. 7-31-09;

1 96-937, eff. 6-23-10; 96-1000, eff. 7-2-10; 96-1496, eff.
2 1-13-11; 97-2, eff. 5-6-11.)

3 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

4 Sec. 207. Net Losses.

5 (a) If after applying all of the (i) modifications provided
6 for in paragraph (2) of Section 203(b), paragraph (2) of
7 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the
8 allocation and apportionment provisions of Article 3 of this
9 Act and subsection (c) of this Section, the taxpayer's net
10 income results in a loss;

11 (1) for any taxable year ending prior to December 31,
12 1999, such loss shall be allowed as a carryover or
13 carryback deduction in the manner allowed under Section 172
14 of the Internal Revenue Code;

15 (2) for any taxable year ending on or after December
16 31, 1999 and prior to December 31, 2003, such loss shall be
17 allowed as a carryback to each of the 2 taxable years
18 preceding the taxable year of such loss and shall be a net
19 operating loss carryover to each of the 20 taxable years
20 following the taxable year of such loss; and

21 (3) for any taxable year ending on or after December
22 31, 2003, such loss shall be allowed as a net operating
23 loss carryover to each of the 12 taxable years following
24 the taxable year of such loss, except as provided in
25 subsection (d).

1 (a-5) Election to relinquish carryback and order of
2 application of losses.

3 (A) For losses incurred in tax years ending prior
4 to December 31, 2003, the taxpayer may elect to
5 relinquish the entire carryback period with respect to
6 such loss. Such election shall be made in the form and
7 manner prescribed by the Department and shall be made
8 by the due date (including extensions of time) for
9 filing the taxpayer's return for the taxable year in
10 which such loss is incurred, and such election, once
11 made, shall be irrevocable.

12 (B) The entire amount of such loss shall be carried
13 to the earliest taxable year to which such loss may be
14 carried. The amount of such loss which shall be carried
15 to each of the other taxable years shall be the excess,
16 if any, of the amount of such loss over the sum of the
17 deductions for carryback or carryover of such loss
18 allowable for each of the prior taxable years to which
19 such loss may be carried.

20 (b) Any loss determined under subsection (a) of this
21 Section must be carried back or carried forward in the same
22 manner for purposes of subsections (a) and (b) of Section 201
23 of this Act as for purposes of subsections (c) and (d) of
24 Section 201 of this Act.

25 (c) Notwithstanding any other provision of this Act, for
26 each taxable year ending on or after December 31, 2008, for

1 purposes of computing the loss for the taxable year under
2 subsection (a) of this Section and the deduction taken into
3 account for the taxable year for a net operating loss carryover
4 under paragraphs (1), (2), and (3) of subsection (a) of this
5 Section, the loss and net operating loss carryover shall be
6 reduced in an amount equal to the reduction to the net
7 operating loss and net operating loss carryover to the taxable
8 year, respectively, required under Section 108(b)(2)(A) of the
9 Internal Revenue Code, multiplied by a fraction, the numerator
10 of which is the amount of discharge of indebtedness income that
11 is excluded from gross income for the taxable year (but only if
12 the taxable year ends on or after December 31, 2008) under
13 Section 108(a) of the Internal Revenue Code and that would have
14 been allocated and apportioned to this State under Article 3 of
15 this Act but for that exclusion, and the denominator of which
16 is the total amount of discharge of indebtedness income
17 excluded from gross income under Section 108(a) of the Internal
18 Revenue Code for the taxable year. The reduction required under
19 this subsection (c) shall be made after the determination of
20 Illinois net income for the taxable year in which the
21 indebtedness is discharged.

22 (d) In the case of a corporation (other than a Subchapter S
23 corporation), no carryover deduction shall be allowed under
24 this Section for any taxable year ending after December 31,
25 2010 and prior to December 31, 2012, and no carryover deduction
26 shall exceed \$100,000 for any taxable year ending on or after

1 December 31, 2012 and prior to December 31, 2014; provided
2 that, for purposes of determining the taxable years to which a
3 net loss may be carried under subsection (a) of this Section,
4 no taxable year for which a deduction is disallowed under this
5 subsection, or for which the deduction would exceed \$100,000 if
6 not for this subsection, shall be counted.

7 (e) In the case of a residual interest holder in a real
8 estate mortgage investment conduit subject to Section 860E of
9 the Internal Revenue Code, the net loss in subsection (a) shall
10 be equal to:

11 (1) the amount computed under subsection (a), without
12 regard to this subsection (e), or if that amount is
13 positive, zero;

14 (2) minus an amount equal to the amount computed under
15 subsection (a), without regard to this subsection (e),
16 minus the amount that would be computed under subsection
17 (a) if the taxpayer's federal taxable income were computed
18 without regard to Section 860E of the Internal Revenue Code
19 and without regard to this subsection (e).

20 The modification in this subsection (e) is exempt from the
21 provisions of Section 250.

22 (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11.)

23 (35 ILCS 5/250)

24 Sec. 250. Sunset of exemptions, credits, and deductions.

25 (a) The application of every exemption, credit, and

1 deduction against tax imposed by this Act that becomes law
2 after the effective date of this amendatory Act of 1994 shall
3 be limited by a reasonable and appropriate sunset date. A
4 taxpayer is not entitled to take the exemption, credit, or
5 deduction for tax years beginning on or after the sunset date.
6 Except as provided in subsection (b) of this Section, if ~~if~~ a
7 reasonable and appropriate sunset date is not specified in the
8 Public Act that creates the exemption, credit, or deduction, a
9 taxpayer shall not be entitled to take the exemption, credit,
10 or deduction for tax years beginning on or after 5 years after
11 the effective date of the Public Act creating the exemption,
12 credit, or deduction and thereafter; provided, however, that in
13 the case of any Public Act authorizing the issuance of
14 tax-exempt obligations that does not specify a sunset date for
15 the exemption or deduction of income derived from the
16 obligations, the exemption or deduction shall not terminate
17 until after the obligations have been paid by the issuer.

18 (b) Notwithstanding the provisions of subsection (a) of
19 this Section, the sunset date of any exemption, credit, or
20 deduction that is scheduled to expire in 2011, 2012, or 2013 by
21 operation of this Section shall be extended by 5 years.

22 (Source: P.A. 88-660, eff. 9-16-94; 89-460, eff. 5-24-96.)

23 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

25 (a) In general. The business income of a person other than

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

20 (1) Property factor.

21 (A) The property factor is a fraction, the numerator of
22 which is the average value of the person's real and
23 tangible personal property owned or rented and used in the
24 trade or business in this State during the taxable year and
25 the denominator of which is the average value of all the
26 person's real and tangible personal property owned or

1 rented and used in the trade or business during the taxable
2 year.

3 (B) Property owned by the person is valued at its
4 original cost. Property rented by the person is valued at 8
5 times the net annual rental rate. Net annual rental rate is
6 the annual rental rate paid by the person less any annual
7 rental rate received by the person from sub-rentals.

8 (C) The average value of property shall be determined
9 by averaging the values at the beginning and ending of the
10 taxable year but the Director may require the averaging of
11 monthly values during the taxable year if reasonably
12 required to reflect properly the average value of the
13 person's property.

14 (2) Payroll factor.

15 (A) The payroll factor is a fraction, the numerator of
16 which is the total amount paid in this State during the
17 taxable year by the person for compensation, and the
18 denominator of which is the total compensation paid
19 everywhere during the taxable year.

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

21 (i) The individual's service is performed entirely
22 within this State;

23 (ii) The individual's service is performed both
24 within and without this State, but the service
25 performed without this State is incidental to the
26 individual's service performed within this State; or

1 (iii) Some of the service is performed within this
2 State and either the base of operations, or if there is
3 no base of operations, the place from which the service
4 is directed or controlled is within this State, or the
5 base of operations or the place from which the service
6 is directed or controlled is not in any state in which
7 some part of the service is performed, but the
8 individual's residence is in this State.

9 (iv) Compensation paid to nonresident professional
10 athletes.

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

21 (b) Travel days. Travel days that do not involve
22 either a game, practice, team meeting, or other similar
23 team event are not considered duty days spent in this
24 State. However, such travel days are considered in the
25 total duty days spent both within and without this
26 State.

1 (c) Definitions. For purposes of this subpart
2 (iv):

3 (1) The term "professional athletic team"
4 includes, but is not limited to, any professional
5 baseball, basketball, football, soccer, or hockey
6 team.

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

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

1 (A) Duty days shall also include days on
2 which a member of a professional athletic team
3 performs service for a team on a date that does
4 not fall within the foregoing period (e.g.,
5 participation in instructional leagues, the
6 "All Star Game", or promotional "caravans").
7 Performing a service for a professional
8 athletic team includes conducting training and
9 rehabilitation activities, when such
10 activities are conducted at team facilities.

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

17 (C) Duty days for any person who joins a
18 team during the period from the beginning of
19 the professional athletic team's official
20 pre-season training period through the last
21 game in which the team competes, or is
22 scheduled to compete, shall begin on the day
23 that person joins the team. Conversely, duty
24 days for any person who leaves a team during
25 this period shall end on the day that person
26 leaves the team. Where a person switches teams

1 during a taxable year, a separate duty-day
2 calculation shall be made for the period the
3 person was with each team.

4 (D) Days for which a member of a
5 professional athletic team is not compensated
6 and is not performing services for the team in
7 any manner, including days when such member of
8 a professional athletic team has been
9 suspended without pay and prohibited from
10 performing any services for the team, shall not
11 be treated as duty days.

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

22 (4) The term "total compensation for services
23 performed as a member of a professional athletic
24 team" means the total compensation received during
25 the taxable year for services performed:

26 (A) from the beginning of the official

1 pre-season training period through the last
2 game in which the team competes or is scheduled
3 to compete during that taxable year; and

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

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

19 For purposes of this subparagraph, "bonuses"
20 included in "total compensation for services
21 performed as a member of a professional athletic
22 team" subject to the allocation described in
23 Section 302(c)(1) are: bonuses earned as a result
24 of play (i.e., performance bonuses) during the
25 season, including bonuses paid for championship,
26 playoff or "bowl" games played by a team, or for

1 selection to all-star league or other honorary
2 positions; and bonuses paid for signing a
3 contract, unless the payment of the signing bonus
4 is not conditional upon the signee playing any
5 games for the team or performing any subsequent
6 services for the team or even making the team, the
7 signing bonus is payable separately from the
8 salary and any other compensation, and the signing
9 bonus is nonrefundable.

10 (3) Sales factor.

11 (A) The sales factor is a fraction, the numerator of
12 which is the total sales of the person in this State during
13 the taxable year, and the denominator of which is the total
14 sales of the person everywhere during the taxable year.

15 (B) Sales of tangible personal property are in this
16 State if:

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

21 (ii) The property is shipped from an office, store,
22 warehouse, factory or other place of storage in this
23 State and either the purchaser is the United States
24 government or the person is not taxable in the state of
25 the purchaser; provided, however, that premises owned
26 or leased by a person who has independently contracted

1 with the seller for the printing of newspapers,
2 periodicals or books shall not be deemed to be an
3 office, store, warehouse, factory or other place of
4 storage for purposes of this Section. Sales of tangible
5 personal property are not in this State if the seller
6 and purchaser would be members of the same unitary
7 business group but for the fact that either the seller
8 or purchaser is a person with 80% or more of total
9 business activity outside of the United States and the
10 property is purchased for resale.

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

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

20 (ii) Place of utilization.

21 (I) A patent is utilized in a state to the
22 extent that it is employed in production,
23 fabrication, manufacturing, or other processing in
24 the state or to the extent that a patented product
25 is produced in the state. If a patent is utilized
26 in more than one state, the extent to which it is

1 utilized in any one state shall be a fraction equal
2 to the gross receipts of the licensee or purchaser
3 from sales or leases of items produced,
4 fabricated, manufactured, or processed within that
5 state using the patent and of patented items
6 produced within that state, divided by the total of
7 such gross receipts for all states in which the
8 patent is utilized.

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

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

22 (iii) If the state of utilization of an item of
23 property governed by this paragraph (B-1) cannot be
24 determined from the taxpayer's books and records or
25 from the books and records of any person related to the
26 taxpayer within the meaning of Section 267(b) of the

1 Internal Revenue Code, 26 U.S.C. 267, the gross
2 receipts attributable to that item shall be excluded
3 from both the numerator and the denominator of the
4 sales factor.

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

18 (B-5) For taxable years ending on or after December 31,
19 2008, except as provided in subsections (ii) through (vii),
20 receipts from the sale of telecommunications service or
21 mobile telecommunications service are in this State if the
22 customer's service address is in this State.

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

25 "Ancillary services" means services that are
26 associated with or incidental to the provision of

1 "telecommunications services", including but not
2 limited to "detailed telecommunications billing",
3 "directory assistance", "vertical service", and "voice
4 mail services".

5 "Air-to-Ground Radiotelephone service" means a
6 radio service, as that term is defined in 47 CFR 22.99,
7 in which common carriers are authorized to offer and
8 provide radio telecommunications service for hire to
9 subscribers in aircraft.

10 "Call-by-call Basis" means any method of charging
11 for telecommunications services where the price is
12 measured by individual calls.

13 "Communications Channel" means a physical or
14 virtual path of communications over which signals are
15 transmitted between or among customer channel
16 termination points.

17 "Conference bridging service" means an "ancillary
18 service" that links two or more participants of an
19 audio or video conference call and may include the
20 provision of a telephone number. "Conference bridging
21 service" does not include the "telecommunications
22 services" used to reach the conference bridge.

23 "Customer Channel Termination Point" means the
24 location where the customer either inputs or receives
25 the communications.

26 "Detailed telecommunications billing service"

1 means an "ancillary service" of separately stating
2 information pertaining to individual calls on a
3 customer's billing statement.

4 "Directory assistance" means an "ancillary
5 service" of providing telephone number information,
6 and/or address information.

7 "Home service provider" means the facilities based
8 carrier or reseller with which the customer contracts
9 for the provision of mobile telecommunications
10 services.

11 "Mobile telecommunications service" means
12 commercial mobile radio service, as defined in Section
13 20.3 of Title 47 of the Code of Federal Regulations as
14 in effect on June 1, 1999.

15 "Place of primary use" means the street address
16 representative of where the customer's use of the
17 telecommunications service primarily occurs, which
18 must be the residential street address or the primary
19 business street address of the customer. In the case of
20 mobile telecommunications services, "place of primary
21 use" must be within the licensed service area of the
22 home service provider.

23 "Post-paid telecommunication service" means the
24 telecommunications service obtained by making a
25 payment on a call-by-call basis either through the use
26 of a credit card or payment mechanism such as a bank

1 card, travel card, credit card, or debit card, or by
2 charge made to a telephone number which is not
3 associated with the origination or termination of the
4 telecommunications service. A post-paid calling
5 service includes telecommunications service, except a
6 prepaid wireless calling service, that would be a
7 prepaid calling service except it is not exclusively a
8 telecommunication service.

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

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

25 "Private communication service" means a
26 telecommunication service that entitles the customer

1 to exclusive or priority use of a communications
2 channel or group of channels between or among
3 termination points, regardless of the manner in which
4 such channel or channels are connected, and includes
5 switching capacity, extension lines, stations, and any
6 other associated services that are provided in
7 connection with the use of such channel or channels.

8 "Service address" means:

9 (a) The location of the telecommunications
10 equipment to which a customer's call is charged and
11 from which the call originates or terminates,
12 regardless of where the call is billed or paid;

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

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

24 "Telecommunications service" means the electronic
25 transmission, conveyance, or routing of voice, data,
26 audio, video, or any other information or signals to a

1 point, or between or among points. The term
2 "telecommunications service" includes such
3 transmission, conveyance, or routing in which computer
4 processing applications are used to act on the form,
5 code or protocol of the content for purposes of
6 transmission, conveyance or routing without regard to
7 whether such service is referred to as voice over
8 Internet protocol services or is classified by the
9 Federal Communications Commission as enhanced or value
10 added. "Telecommunications service" does not include:

11 (a) Data processing and information services
12 that allow data to be generated, acquired, stored,
13 processed, or retrieved and delivered by an
14 electronic transmission to a purchaser when such
15 purchaser's primary purpose for the underlying
16 transaction is the processed data or information;

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

19 (c) Tangible personal property;

20 (d) Advertising, including but not limited to
21 directory advertising.

22 (e) Billing and collection services provided
23 to third parties;

24 (f) Internet access service;

25 (g) Radio and television audio and video
26 programming services, regardless of the medium,

1 including the furnishing of transmission,
2 conveyance and routing of such services by the
3 programming service provider. Radio and television
4 audio and video programming services shall include
5 but not be limited to cable service as defined in
6 47 USC 522(6) and audio and video programming
7 services delivered by commercial mobile radio
8 service providers, as defined in 47 CFR 20.3;

9 (h) "Ancillary services"; or

10 (i) Digital products "delivered
11 electronically", including but not limited to
12 software, music, video, reading materials or ring
13 tones.

14 "Vertical service" means an "ancillary service"
15 that is offered in connection with one or more
16 "telecommunications services", which offers advanced
17 calling features that allow customers to identify
18 callers and to manage multiple calls and call
19 connections, including "conference bridging services".

20 "Voice mail service" means an "ancillary service"
21 that enables the customer to store, send or receive
22 recorded messages. "Voice mail service" does not
23 include any "vertical services" that the customer may
24 be required to have in order to utilize the "voice mail
25 service".

26 (ii) Receipts from the sale of telecommunications

1 service sold on an individual call-by-call basis are in
2 this State if either of the following applies:

3 (a) The call both originates and terminates in
4 this State.

5 (b) The call either originates or terminates
6 in this State and the service address is located in
7 this State.

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

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

26 (v) Receipts from the sale of private

1 communication services are in this State as follows:

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

4 (b) 100% of receipts from charges for the total
5 channel mileage between each channel termination
6 point in this State.

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

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

21 (vi) Receipts from charges for ancillary services
22 for telecommunications service sold to customers at
23 retail are in this State if the customer's primary
24 place of use of telecommunications services associated
25 with those ancillary services is in this State. If the
26 seller of those ancillary services cannot determine

1 where the associated telecommunications are located,
2 then the ancillary services shall be based on the
3 location of the purchaser.

4 (vii) Receipts to access a carrier's network or
5 from the sale of telecommunication services or
6 ancillary services for resale are in this State as
7 follows:

8 (a) 100% of the receipts from access fees
9 attributable to intrastate telecommunications
10 service that both originates and terminates in
11 this State.

12 (b) 50% of the receipts from access fees
13 attributable to interstate telecommunications
14 service if the interstate call either originates
15 or terminates in this State.

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

23 (d) Gross receipts from sales of
24 telecommunication services or from ancillary
25 services for telecommunications services sold to
26 other telecommunication service providers for

1 resale shall be sourced to this State using the
2 apportionment concepts used for non-resale
3 receipts of telecommunications services if the
4 information is readily available to make that
5 determination. If the information is not readily
6 available, then the taxpayer may use any other
7 reasonable and consistent method.

8 (B-7) For taxable years ending on or after December 31,
9 2008, receipts from the sale of broadcasting services are
10 in this State if the broadcasting services are received in
11 this State. For purposes of this paragraph (B-7), the
12 following terms have the following meanings:

13 "Advertising revenue" means consideration received
14 by the taxpayer in exchange for broadcasting services
15 or allowing the broadcasting of commercials or
16 announcements in connection with the broadcasting of
17 film or radio programming, from sponsorships of the
18 programming, or from product placements in the
19 programming.

20 "Audience factor" means the ratio that the
21 audience or subscribers located in this State of a
22 station, a network, or a cable system bears to the
23 total audience or total subscribers for that station,
24 network, or cable system. The audience factor for film
25 or radio programming shall be determined by reference
26 to the books and records of the taxpayer or by

1 reference to published rating statistics provided the
2 method used by the taxpayer is consistently used from
3 year to year for this purpose and fairly represents the
4 taxpayer's activity in this State.

5 "Broadcast" or "broadcasting" or "broadcasting
6 services" means the transmission or provision of film
7 or radio programming, whether through the public
8 airwaves, by cable, by direct or indirect satellite
9 transmission, or by any other means of communication,
10 either through a station, a network, or a cable system.

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

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

1 live or through the use of an audio tape, disc, or any
2 other format or medium. Each episode in a series of
3 radio programming produced for radio broadcast shall
4 constitute a separate "radio programming"
5 notwithstanding that the series relates to the same
6 principal subject and is produced during one or more
7 tax periods.

8 (i) In the case of advertising revenue from
9 broadcasting, the customer is the advertiser and
10 the service is received in this State if the
11 commercial domicile of the advertiser is in this
12 State.

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

1 address of the recipient shown in its contracts
2 with the recipient or using the billing address of
3 the recipient in the taxpayer's records.

4 (iii) In the case where film or radio
5 programming is broadcast by a station, a network,
6 or a cable system for a fee or other remuneration
7 from the person providing the programming, the
8 portion of the broadcast service that is received
9 by such station, network, or cable system in this
10 State is measured by the portion of recipients of
11 the broadcast located in this State. Accordingly,
12 the amount of revenue related to such an
13 arrangement that is included in the Illinois
14 numerator of the sales factor is the total fee or
15 other total remuneration from the person providing
16 the programming related to that broadcast
17 multiplied by the Illinois audience factor for
18 that broadcast.

19 (iv) In the case where film or radio
20 programming is provided by a taxpayer that is a
21 network or station to a customer for broadcast in
22 exchange for a fee or other remuneration from that
23 customer the broadcasting service is received at
24 the location of the office of the customer from
25 which the services were ordered in the regular
26 course of the customer's trade or business.

1 Accordingly, in such a case the revenue derived by
2 the taxpayer that is included in the taxpayer's
3 Illinois numerator of the sales factor is the
4 revenue from such customers who receive the
5 broadcasting service in Illinois.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (b) Insurance companies.

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

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

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

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

13 (c) Financial organizations.

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

26 (A) Fees, commissions or other compensation for

1 financial services rendered within this State;

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

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

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

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

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

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

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

5 (i) The numerator shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to a customer in this State.

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

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

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

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

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

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

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

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

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

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

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

1 all such funds and such securities.

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

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

1 presumed to have been properly assigned if:

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

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

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

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

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

21 (4) (Blank).

22 (5) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (A) relative railway operating income from total

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

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

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

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

1 be apportioned by means of the combined apportionment method.

2 (f) Alternative allocation. If the allocation and
3 apportionment provisions of subsections (a) through (e) and of
4 subsection (h) do not fairly represent the extent of a person's
5 business activity in this State, the person may petition for,
6 or the Director may, without a petition, permit or require, in
7 respect of all or any part of the person's business activity,
8 if reasonable:

9 (1) Separate accounting;

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

11 (3) The inclusion of one or more additional factors
12 which will fairly represent the person's business
13 activities in this State; or

14 (4) The employment of any other method to effectuate an
15 equitable allocation and apportionment of the person's
16 business income.

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

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

22 (1) for tax years ending on or after December 31, 1998
23 and before December 31, 1999, 16 2/3% of the property
24 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
25 the sales factor;

26 (2) for tax years ending on or after December 31, 1999

1 and before December 31, 2000, 8 1/3% of the property factor
2 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales
3 factor;

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

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

13 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11.)

14 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

15 Sec. 804. Failure to Pay Estimated Tax.

16 (a) In general. In case of any underpayment of estimated
17 tax by a taxpayer, except as provided in subsection (d) or (e),
18 the taxpayer shall be liable to a penalty in an amount
19 determined at the rate prescribed by Section 3-3 of the Uniform
20 Penalty and Interest Act upon the amount of the underpayment
21 (determined under subsection (b)) for each required
22 installment.

23 (b) Amount of underpayment. For purposes of subsection (a),
24 the amount of the underpayment shall be the excess of:

25 (1) the amount of the installment which would be

1 required to be paid under subsection (c), over

2 (2) the amount, if any, of the installment paid on or
3 before the last date prescribed for payment.

4 (c) Amount of Required Installments.

5 (1) Amount.

6 (A) In General. Except as provided in paragraphs
7 ~~paragraph~~ (2) and (3), the amount of any required
8 installment shall be 25% of the required annual
9 payment.

10 (B) Required Annual Payment. For purposes of
11 subparagraph (A), the term "required annual payment"
12 means the lesser of:

13 (i) 90% of the tax shown on the return for the
14 taxable year, or if no return is filed, 90% of the
15 tax for such year;7

16 (ii) for installments due prior to February 1,
17 2011, and after January 31, 2012, 100% of the tax
18 shown on the return of the taxpayer for the
19 preceding taxable year if a return showing a
20 liability for tax was filed by the taxpayer for the
21 preceding taxable year and such preceding year was
22 a taxable year of 12 months; or

23 (iii) for installments due after January 31,
24 2011, and prior to February 1, 2012, 150% of the
25 tax shown on the return of the taxpayer for the
26 preceding taxable year if a return showing a

1 liability for tax was filed by the taxpayer for the
2 preceding taxable year and such preceding year was
3 a taxable year of 12 months.

4 (2) Lower Required Installment where Annualized Income
5 Installment is Less Than Amount Determined Under Paragraph
6 (1).

7 (A) In General. In the case of any required
8 installment if a taxpayer establishes that the
9 annualized income installment is less than the amount
10 determined under paragraph (1),

11 (i) the amount of such required installment
12 shall be the annualized income installment, and

13 (ii) any reduction in a required installment
14 resulting from the application of this
15 subparagraph shall be recaptured by increasing the
16 amount of the next required installment determined
17 under paragraph (1) by the amount of such
18 reduction, and by increasing subsequent required
19 installments to the extent that the reduction has
20 not previously been recaptured under this clause.

21 (B) Determination of Annualized Income
22 Installment. In the case of any required installment,
23 the annualized income installment is the excess, if
24 any, of:

25 (i) an amount equal to the applicable
26 percentage of the tax for the taxable year computed

1 by placing on an annualized basis the net income
 2 for months in the taxable year ending before the
 3 due date for the installment, over

4 (ii) the aggregate amount of any prior
 5 required installments for the taxable year.

6 (C) Applicable Percentage.

7	In the case of the following	The applicable
8	required installments:	percentage is:
9	1st.....	22.5%
10	2nd.....	45%
11	3rd.....	67.5%
12	4th.....	90%

13 (D) Annualized Net Income; Individuals. For
 14 individuals, net income shall be placed on an
 15 annualized basis by:

16 (i) multiplying by 12, or in the case of a
 17 taxable year of less than 12 months, by the number
 18 of months in the taxable year, the net income
 19 computed without regard to the standard exemption
 20 for the months in the taxable year ending before
 21 the month in which the installment is required to
 22 be paid;

23 (ii) dividing the resulting amount by the
 24 number of months in the taxable year ending before
 25 the month in which such installment date falls; and

26 (iii) deducting from such amount the standard

1 exemption allowable for the taxable year, such
2 standard exemption being determined as of the last
3 date prescribed for payment of the installment.

4 (E) Annualized Net Income; Corporations. For
5 corporations, net income shall be placed on an
6 annualized basis by multiplying by 12 the taxable
7 income

8 (i) for the first 3 months of the taxable year,
9 in the case of the installment required to be paid
10 in the 4th month,

11 (ii) for the first 3 months or for the first 5
12 months of the taxable year, in the case of the
13 installment required to be paid in the 6th month,

14 (iii) for the first 6 months or for the first 8
15 months of the taxable year, in the case of the
16 installment required to be paid in the 9th month,
17 and

18 (iv) for the first 9 months or for the first 11
19 months of the taxable year, in the case of the
20 installment required to be paid in the 12th month
21 of the taxable year,

22 then dividing the resulting amount by the number of
23 months in the taxable year (3, 5, 6, 8, 9, or 11 as the
24 case may be).

25 (3) Notwithstanding any other provision of this
26 subsection (c), in the case of a federally-regulated

1 exchange that elects to apportion its income under Section
2 304(c-1) of this Act, the amount of each required
3 installment due prior to June 30 of the first taxable year
4 to which the election applies shall be 25% of the tax that
5 would have been shown on the return for that taxable year
6 if the taxpayer had not made such election.

7 (d) Exceptions. Notwithstanding the provisions of the
8 preceding subsections, the penalty imposed by subsection (a)
9 shall not be imposed if the taxpayer was not required to file
10 an Illinois income tax return for the preceding taxable year,
11 or, for individuals, if the taxpayer had no tax liability for
12 the preceding taxable year and such year was a taxable year of
13 12 months. The penalty imposed by subsection (a) shall also not
14 be imposed on any underpayments of estimated tax due before the
15 effective date of this amendatory Act of 1998 which
16 underpayments are solely attributable to the change in
17 apportionment from subsection (a) to subsection (h) of Section
18 304. The provisions of this amendatory Act of 1998 apply to tax
19 years ending on or after December 31, 1998.

20 (e) The penalty imposed for underpayment of estimated tax
21 by subsection (a) of this Section shall not be imposed to the
22 extent that the Director or his or her designate determines,
23 pursuant to Section 3-8 of the Uniform Penalty and Interest Act
24 that the penalty should not be imposed.

25 (f) Definition of tax. For purposes of subsections (b) and
26 (c), the term "tax" means the excess of the tax imposed under

1 Article 2 of this Act, over the amounts credited against such
2 tax under Sections 601(b) (3) and (4).

3 (g) Application of Section in case of tax withheld under
4 Article 7. For purposes of applying this Section:

5 (1) tax withheld from compensation for the taxable year
6 shall be deemed a payment of estimated tax, and an equal
7 part of such amount shall be deemed paid on each
8 installment date for such taxable year, unless the taxpayer
9 establishes the dates on which all amounts were actually
10 withheld, in which case the amounts so withheld shall be
11 deemed payments of estimated tax on the dates on which such
12 amounts were actually withheld;

13 (2) amounts timely paid by a partnership, Subchapter S
14 corporation, or trust on behalf of a partner, shareholder,
15 or beneficiary pursuant to subsection (f) of Section 502 or
16 Section 709.5 and claimed as a payment of estimated tax
17 shall be deemed a payment of estimated tax made on the last
18 day of the taxable year of the partnership, Subchapter S
19 corporation, or trust for which the income from the
20 withholding is made was computed; and

21 (3) all other amounts pursuant to Article 7 shall be
22 deemed a payment of estimated tax on the date the payment
23 is made to the taxpayer of the amount from which the tax is
24 withheld.

25 (g-5) Amounts withheld under the State Salary and Annuity
26 Withholding Act. An individual who has amounts withheld under

1 paragraph (10) of Section 4 of the State Salary and Annuity
2 Withholding Act may elect to have those amounts treated as
3 payments of estimated tax made on the dates on which those
4 amounts are actually withheld.

5 (i) Short taxable year. The application of this Section to
6 taxable years of less than 12 months shall be in accordance
7 with regulations prescribed by the Department.

8 The changes in this Section made by Public Act 84-127 shall
9 apply to taxable years ending on or after January 1, 1986.

10 (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11;
11 revised 11-18-11.)

12 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

13 Sec. 1501. Definitions.

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

17 (1) Business income. The term "business income" means
18 all income that may be treated as apportionable business
19 income under the Constitution of the United States.
20 Business income is net of the deductions allocable thereto.
21 Such term does not include compensation or the deductions
22 allocable thereto. For each taxable year beginning on or
23 after January 1, 2003, a taxpayer may elect to treat all
24 income other than compensation as business income. This
25 election shall be made in accordance with rules adopted by

1 the Department and, once made, shall be irrevocable.

2 (1.5) Captive real estate investment trust:

3 (A) The term "captive real estate investment
4 trust" means a corporation, trust, or association:

5 (i) that is considered a real estate
6 investment trust for the taxable year under
7 Section 856 of the Internal Revenue Code;

8 (ii) the certificates of beneficial interest
9 or shares of which are not regularly traded on an
10 established securities market; and

11 (iii) of which more than 50% of the voting
12 power or value of the beneficial interest or
13 shares, at any time during the last half of the
14 taxable year, is owned or controlled, directly,
15 indirectly, or constructively, by a single
16 corporation.

17 (B) The term "captive real estate investment
18 trust" does not include:

19 (i) a real estate investment trust of which
20 more than 50% of the voting power or value of the
21 beneficial interest or shares is owned or
22 controlled, directly, indirectly, or
23 constructively, by:

24 (a) a real estate investment trust, other
25 than a captive real estate investment trust;

26 (b) a person who is exempt from taxation

1 under Section 501 of the Internal Revenue Code,
2 and who is not required to treat income
3 received from the real estate investment trust
4 as unrelated business taxable income under
5 Section 512 of the Internal Revenue Code;

6 (c) a listed Australian property trust, if
7 no more than 50% of the voting power or value
8 of the beneficial interest or shares of that
9 trust, at any time during the last half of the
10 taxable year, is owned or controlled, directly
11 or indirectly, by a single person;

12 (d) an entity organized as a trust,
13 provided a listed Australian property trust
14 described in subparagraph (c) owns or
15 controls, directly or indirectly, or
16 constructively, 75% or more of the voting power
17 or value of the beneficial interests or shares
18 of such entity; or

19 (e) an entity that is organized outside of
20 the laws of the United States and that
21 satisfies all of the following criteria:

22 (1) at least 75% of the entity's total
23 asset value at the close of its taxable
24 year is represented by real estate assets
25 (as defined in Section 856(c)(5)(B) of the
26 Internal Revenue Code, thereby including

1 shares or certificates of beneficial
2 interest in any real estate investment
3 trust), cash and cash equivalents, and
4 U.S. Government securities;

5 (2) the entity is not subject to tax on
6 amounts that are distributed to its
7 beneficial owners or is exempt from
8 entity-level taxation;

9 (3) the entity distributes at least
10 85% of its taxable income (as computed in
11 the jurisdiction in which it is organized)
12 to the holders of its shares or
13 certificates of beneficial interest on an
14 annual basis;

15 (4) either (i) the shares or
16 beneficial interests of the entity are
17 regularly traded on an established
18 securities market or (ii) not more than 10%
19 of the voting power or value in the entity
20 is held, directly, indirectly, or
21 constructively, by a single entity or
22 individual; and

23 (5) the entity is organized in a
24 country that has entered into a tax treaty
25 with the United States; or

26 (ii) during its first taxable year for which it

1 elects to be treated as a real estate investment
2 trust under Section 856(c)(1) of the Internal
3 Revenue Code, a real estate investment trust the
4 certificates of beneficial interest or shares of
5 which are not regularly traded on an established
6 securities market, but only if the certificates of
7 beneficial interest or shares of the real estate
8 investment trust are regularly traded on an
9 established securities market prior to the earlier
10 of the due date (including extensions) for filing
11 its return under this Act for that first taxable
12 year or the date it actually files that return.

13 (C) For the purposes of this subsection (1.5), the
14 constructive ownership rules prescribed under Section
15 318(a) of the Internal Revenue Code, as modified by
16 Section 856(d)(5) of the Internal Revenue Code, apply
17 in determining the ownership of stock, assets, or net
18 profits of any person.

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

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

25 (4) Corporation. The term "corporation" includes
26 associations, joint-stock companies, insurance companies

1 and cooperatives. Any entity, including a limited
2 liability company formed under the Illinois Limited
3 Liability Company Act, shall be treated as a corporation if
4 it is so classified for federal income tax purposes.

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

7 (6) Director. The term "Director" means the Director of
8 Revenue of this State.

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

12 (8) Financial organization.

13 (A) The term "financial organization" means any
14 bank, bank holding company, trust company, savings
15 bank, industrial bank, land bank, safe deposit
16 company, private banker, savings and loan association,
17 building and loan association, credit union, currency
18 exchange, cooperative bank, small loan company, sales
19 finance company, investment company, or any person
20 which is owned by a bank or bank holding company. For
21 the purpose of this Section a "person" will include
22 only those persons which a bank holding company may
23 acquire and hold an interest in, directly or
24 indirectly, under the provisions of the Bank Holding
25 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
26 where interests in any person must be disposed of

1 within certain required time limits under the Bank
2 Holding Company Act of 1956.

3 (B) For purposes of subparagraph (A) of this
4 paragraph, the term "bank" includes (i) any entity that
5 is regulated by the Comptroller of the Currency under
6 the National Bank Act, or by the Federal Reserve Board,
7 or by the Federal Deposit Insurance Corporation and
8 (ii) any federally or State chartered bank operating as
9 a credit card bank.

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

13 (i) A person primarily engaged in one or more
14 of the following businesses: the business of
15 purchasing customer receivables, the business of
16 making loans upon the security of customer
17 receivables, the business of making loans for the
18 express purpose of funding purchases of tangible
19 personal property or services by the borrower, or
20 the business of finance leasing. For purposes of
21 this item (i), "customer receivable" means:

22 (a) a retail installment contract or
23 retail charge agreement within the meaning of
24 the Sales Finance Agency Act, the Retail
25 Installment Sales Act, or the Motor Vehicle
26 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

1 interest income derived from qualifying loans.
2 A "qualifying loan" is a loan made to a member
3 of the corporation's affiliated group that
4 originates customer receivables (within the
5 meaning of item (i)) or to whom customer
6 receivables originated by a member of the
7 affiliated group have been transferred, to the
8 extent the average outstanding balance of
9 loans from that corporation to members of its
10 affiliated group during the taxable year do not
11 exceed the limitation amount for that
12 corporation. The "limitation amount" for a
13 corporation is the average outstanding
14 balances during the taxable year of customer
15 receivables (within the meaning of item (i))
16 originated by all members of the affiliated
17 group. If the average outstanding balances of
18 the loans made by a corporation to members of
19 its affiliated group exceed the limitation
20 amount, the interest income of that
21 corporation from qualifying loans shall be
22 equal to its interest income from loans to
23 members of its affiliated groups times a
24 fraction equal to the limitation amount
25 divided by the average outstanding balances of
26 the loans made by that corporation to members

1 of its affiliated group;

2 (c) the total of all shareholder's equity
3 (including, without limitation, paid-in
4 capital on common and preferred stock and
5 retained earnings) of the corporation plus the
6 total of all of its loans, advances, and other
7 obligations payable or owed to members of its
8 affiliated group may not exceed 20% of the
9 total assets of the corporation at any time
10 during the tax year; and

11 (d) more than 50% of all interest-bearing
12 obligations of the affiliated group payable to
13 persons outside the group determined in
14 accordance with generally accepted accounting
15 principles must be obligations of the
16 corporation.

17 This amendatory Act of the 91st General Assembly is
18 declaratory of existing law.

19 (D) Subparagraphs (B) and (C) of this paragraph are
20 declaratory of existing law and apply retroactively,
21 for all tax years beginning on or before December 31,
22 1996, to all original returns, to all amended returns
23 filed no later than 30 days after the effective date of
24 this amendatory Act of 1996, and to all notices issued
25 on or before the effective date of this amendatory Act
26 of 1996 under subsection (a) of Section 903, subsection

1 (a) of Section 904, subsection (e) of Section 909, or
2 Section 912. A taxpayer that is a "financial
3 organization" that engages in any transaction with an
4 affiliate shall be a "financial organization" for all
5 purposes of this Act.

6 (E) For all tax years beginning on or before
7 December 31, 1996, a taxpayer that falls within the
8 definition of a "financial organization" under
9 subparagraphs (B) or (C) of this paragraph, but who
10 does not fall within the definition of a "financial
11 organization" under the Proposed Regulations issued by
12 the Department of Revenue on July 19, 1996, may
13 irrevocably elect to apply the Proposed Regulations
14 for all of those years as though the Proposed
15 Regulations had been lawfully promulgated, adopted,
16 and in effect for all of those years. For purposes of
17 applying subparagraphs (B) or (C) of this paragraph to
18 all of those years, the election allowed by this
19 subparagraph applies only to the taxpayer making the
20 election and to those members of the taxpayer's unitary
21 business group who are ordinarily required to
22 apportion business income under the same subsection of
23 Section 304 of this Act as the taxpayer making the
24 election. No election allowed by this subparagraph
25 shall be made under a claim filed under subsection (d)
26 of Section 909 more than 30 days after the effective

1 date of this amendatory Act of 1996.

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

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

16 (9.5) Fixed place of business. The term "fixed place of
17 business" has the same meaning as that term is given in
18 Section 864 of the Internal Revenue Code and the related
19 Treasury regulations.

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

24 (11) Internal Revenue Code. The term "Internal Revenue
25 Code" means the United States Internal Revenue Code of 1954
26 or any successor law or laws relating to federal income

1 taxes in effect for the taxable year.

2 (11.5) Investment partnership.

3 (A) The term "investment partnership" means any
4 entity that is treated as a partnership for federal
5 income tax purposes that meets the following
6 requirements:

7 (i) no less than 90% of the partnership's cost
8 of its total assets consists of qualifying
9 investment securities, deposits at banks or other
10 financial institutions, and office space and
11 equipment reasonably necessary to carry on its
12 activities as an investment partnership;

13 (ii) no less than 90% of its gross income
14 consists of interest, dividends, and gains from
15 the sale or exchange of qualifying investment
16 securities; and

17 (iii) the partnership is not a dealer in
18 qualifying investment securities.

19 (B) For purposes of this paragraph (11.5), the term
20 "qualifying investment securities" includes all of the
21 following:

22 (i) common stock, including preferred or debt
23 securities convertible into common stock, and
24 preferred stock;

25 (ii) bonds, debentures, and other debt
26 securities;

1 (iii) foreign and domestic currency deposits
2 secured by federal, state, or local governmental
3 agencies;

4 (iv) mortgage or asset-backed securities
5 secured by federal, state, or local governmental
6 agencies;

7 (v) repurchase agreements and loan
8 participations;

9 (vi) foreign currency exchange contracts and
10 forward and futures contracts on foreign
11 currencies;

12 (vii) stock and bond index securities and
13 futures contracts and other similar financial
14 securities and futures contracts on those
15 securities;

16 (viii) options for the purchase or sale of any
17 of the securities, currencies, contracts, or
18 financial instruments described in items (i) to
19 (vii), inclusive;

20 (ix) regulated futures contracts;

21 (x) commodities (not described in Section
22 1221(a)(1) of the Internal Revenue Code) or
23 futures, forwards, and options with respect to
24 such commodities, provided, however, that any item
25 of a physical commodity to which title is actually
26 acquired in the partnership's capacity as a dealer

1 in such commodity shall not be a qualifying
2 investment security;

3 (xi) derivatives; and

4 (xii) a partnership interest in another
5 partnership that is an investment partnership.

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

10 (A) arithmetic errors or incorrect computations on
11 the return or supporting schedules;

12 (B) entries on the wrong lines;

13 (C) omission of required supporting forms or
14 schedules or the omission of the information in whole
15 or in part called for thereon; and

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

20 (13) Nonbusiness income. The term "nonbusiness income"
21 means all income other than business income or
22 compensation.

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

25 (15) Paid, incurred and accrued. The terms "paid",
26 "incurring" 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

1 establishment of domicile in this State and ceases with the
2 establishment of domicile in another State.

3 (18) Person. The term "person" shall be construed to
4 mean and include an individual, a trust, estate,
5 partnership, association, firm, company, corporation,
6 limited liability company, or fiduciary. For purposes of
7 Section 1301 and 1302 of this Act, a "person" means (i) an
8 individual, (ii) a corporation, (iii) an officer, agent, or
9 employee of a corporation, (iv) a member, agent or employee
10 of a partnership, or (v) a member, manager, employee,
11 officer, director, or agent of a limited liability company
12 who in such capacity commits an offense specified in
13 Section 1301 and 1302.

14 (18A) Records. The term "records" includes all data
15 maintained by the taxpayer, whether on paper, microfilm,
16 microfiche, or any type of machine-sensible data
17 compilation.

18 (19) Regulations. The term "regulations" includes
19 rules promulgated and forms prescribed by the Department.

20 (20) Resident. The term "resident" means:

21 (A) an individual (i) who is in this State for
22 other than a temporary or transitory purpose during the
23 taxable year; or (ii) who is domiciled in this State
24 but is absent from the State for a temporary or
25 transitory purpose during the taxable year;

26 (B) The estate of a decedent who at his or her

1 death was domiciled in this State;

2 (C) A trust created by a will of a decedent who at
3 his death was domiciled in this State; and

4 (D) An irrevocable trust, the grantor of which was
5 domiciled in this State at the time such trust became
6 irrevocable. For purpose of this subparagraph, a trust
7 shall be considered irrevocable to the extent that the
8 grantor is not treated as the owner thereof under
9 Sections 671 through 678 of the Internal Revenue Code.

10 (21) Sales. The term "sales" means all gross receipts
11 of the taxpayer not allocated under Sections 301, 302 and
12 303.

13 (22) State. The term "state" when applied to a
14 jurisdiction other than this State means any state of the
15 United States, the District of Columbia, the Commonwealth
16 of Puerto Rico, any Territory or Possession of the United
17 States, and any foreign country, or any political
18 subdivision of any of the foregoing. For purposes of the
19 foreign tax credit under Section 601, the term "state"
20 means any state of the United States, the District of
21 Columbia, the Commonwealth of Puerto Rico, and any
22 territory or possession of the United States, or any
23 political subdivision of any of the foregoing, effective
24 for tax years ending on or after December 31, 1989.

25 (23) Taxable year. The term "taxable year" means the
26 calendar year, or the fiscal year ending during such

1 calendar year, upon the basis of which the base income is
2 computed under this Act. "Taxable year" means, in the case
3 of a return made for a fractional part of a year under the
4 provisions of this Act, the period for which such return is
5 made.

6 (24) Taxpayer. The term "taxpayer" means any person
7 subject to the tax imposed by this Act.

8 (25) International banking facility. The term
9 international banking facility shall have the same meaning
10 as is set forth in the Illinois Banking Act or as is set
11 forth in the laws of the United States or regulations of
12 the Board of Governors of the Federal Reserve System.

13 (26) Income Tax Return Preparer.

14 (A) The term "income tax return preparer" means any
15 person who prepares for compensation, or who employs
16 one or more persons to prepare for compensation, any
17 return of tax imposed by this Act or any claim for
18 refund of tax imposed by this Act. The preparation of a
19 substantial portion of a return or claim for refund
20 shall be treated as the preparation of that return or
21 claim for refund.

22 (B) A person is not an income tax return preparer
23 if all he or she does is

24 (i) furnish typing, reproducing, or other
25 mechanical assistance;

26 (ii) prepare returns or claims for refunds for

1 the employer by whom he or she is regularly and
2 continuously employed;

3 (iii) prepare as a fiduciary returns or claims
4 for refunds for any person; or

5 (iv) prepare claims for refunds for a taxpayer
6 in response to any notice of deficiency issued to
7 that taxpayer or in response to any waiver of
8 restriction after the commencement of an audit of
9 that taxpayer or of another taxpayer if a
10 determination in the audit of the other taxpayer
11 directly or indirectly affects the tax liability
12 of the taxpayer whose claims he or she is
13 preparing.

14 (27) Unitary business group.

15 (A) The term "unitary business group" means a group
16 of persons related through common ownership whose
17 business activities are integrated with, dependent
18 upon and contribute to each other. The group will not
19 include those members whose business activity outside
20 the United States is 80% or more of any such member's
21 total business activity; for purposes of this
22 paragraph and clause (a)(3)(B)(ii) of Section 304,
23 business activity within the United States shall be
24 measured by means of the factors ordinarily applicable
25 under subsections (a), (b), (c), (d), or (h) of Section
26 304 except that, in the case of members ordinarily

1 required to apportion business income by means of the 3
2 factor formula of property, payroll and sales
3 specified in subsection (a) of Section 304, including
4 the formula as weighted in subsection (h) of Section
5 304, such members shall not use the sales factor in the
6 computation and the results of the property and payroll
7 factor computations of subsection (a) of Section 304
8 shall be divided by 2 (by one if either the property or
9 payroll factor has a denominator of zero). The
10 computation required by the preceding sentence shall,
11 in each case, involve the division of the member's
12 property, payroll, or revenue miles in the United
13 States, insurance premiums on property or risk in the
14 United States, or financial organization business
15 income from sources within the United States, as the
16 case may be, by the respective worldwide figures for
17 such items. Common ownership in the case of
18 corporations is the direct or indirect control or
19 ownership of more than 50% of the outstanding voting
20 stock of the persons carrying on unitary business
21 activity. Unitary business activity can ordinarily be
22 illustrated where the activities of the members are:
23 (1) in the same general line (such as manufacturing,
24 wholesaling, retailing of tangible personal property,
25 insurance, transportation or finance); or (2) are
26 steps in a vertically structured enterprise or process

1 (such as the steps involved in the production of
2 natural resources, which might include exploration,
3 mining, refining, and marketing); and, in either
4 instance, the members are functionally integrated
5 through the exercise of strong centralized management
6 (where, for example, authority over such matters as
7 purchasing, financing, tax compliance, product line,
8 personnel, marketing and capital investment is not
9 left to each member).

10 (B) In no event, shall any unitary business group
11 include members which are ordinarily required to
12 apportion business income under different subsections
13 of Section 304 except that for tax years ending on or
14 after December 31, 1987 this prohibition shall not
15 apply to a holding company that would otherwise be a
16 member of a unitary business group with taxpayers that
17 apportion business income under any of subsections
18 (b), (c), (c-1), or (d) of Section 304. If a unitary
19 business group would, but for the preceding sentence,
20 include members that are ordinarily required to
21 apportion business income under different subsections
22 of Section 304, then for each subsection of Section 304
23 for which there are two or more members, there shall be
24 a separate unitary business group composed of such
25 members. For purposes of the preceding two sentences, a
26 member is "ordinarily required to apportion business

1 income" under a particular subsection of Section 304 if
2 it would be required to use the apportionment method
3 prescribed by such subsection except for the fact that
4 it derives business income solely from Illinois. As
5 used in this paragraph, the phrase "United States"
6 means only the 50 states and the District of Columbia,
7 but does not include any territory or possession of the
8 United States or any area over which the United States
9 has asserted jurisdiction or claimed exclusive rights
10 with respect to the exploration for or exploitation of
11 natural resources.

12 (C) Holding companies.

13 (i) For purposes of this subparagraph, a
14 "holding company" is a corporation (other than a
15 corporation that is a financial organization under
16 paragraph (8) of this subsection (a) of Section
17 1501 because it is a bank holding company under the
18 provisions of the Bank Holding Company Act of 1956
19 (12 U.S.C. 1841, et seq.) or because it is owned by
20 a bank or a bank holding company) that owns a
21 controlling interest in one or more other
22 taxpayers ("controlled taxpayers"); that, during
23 the period that includes the taxable year and the 2
24 immediately preceding taxable years or, if the
25 corporation was formed during the current or
26 immediately preceding taxable year, the taxable

1 years in which the corporation has been in
2 existence, derived substantially all its gross
3 income from dividends, interest, rents, royalties,
4 fees or other charges received from controlled
5 taxpayers for the provision of services, and gains
6 on the sale or other disposition of interests in
7 controlled taxpayers or in property leased or
8 licensed to controlled taxpayers or used by the
9 taxpayer in providing services to controlled
10 taxpayers; and that incurs no substantial expenses
11 other than expenses (including interest and other
12 costs of borrowing) incurred in connection with
13 the acquisition and holding of interests in
14 controlled taxpayers and in the provision of
15 services to controlled taxpayers or in the leasing
16 or licensing of property to controlled taxpayers.

17 (ii) The income of a holding company which is a
18 member of more than one unitary business group
19 shall be included in each unitary business group of
20 which it is a member on a pro rata basis, by
21 including in each unitary business group that
22 portion of the base income of the holding company
23 that bears the same proportion to the total base
24 income of the holding company as the gross receipts
25 of the unitary business group bears to the combined
26 gross receipts of all unitary business groups (in

1 both cases without regard to the holding company)
2 or on any other reasonable basis, consistently
3 applied.

4 (iii) A holding company shall apportion its
5 business income under the subsection of Section
6 304 used by the other members of its unitary
7 business group. The apportionment factors of a
8 holding company which would be a member of more
9 than one unitary business group shall be included
10 with the apportionment factors of each unitary
11 business group of which it is a member on a pro
12 rata basis using the same method used in clause
13 (ii).

14 (iv) The provisions of this subparagraph (C)
15 are intended to clarify existing law.

16 (D) If including the base income and factors of a
17 holding company in more than one unitary business group
18 under subparagraph (C) does not fairly reflect the
19 degree of integration between the holding company and
20 one or more of the unitary business groups, the
21 dependence of the holding company and one or more of
22 the unitary business groups upon each other, or the
23 contributions between the holding company and one or
24 more of the unitary business groups, the holding
25 company may petition the Director, under the
26 procedures provided under Section 304(f), for

1 permission to include all base income and factors of
2 the holding company only with members of a unitary
3 business group apportioning their business income
4 under one subsection of subsections (a), (b), (c), or
5 (d) of Section 304. If the petition is granted, the
6 holding company shall be included in a unitary business
7 group only with persons apportioning their business
8 income under the selected subsection of Section 304
9 until the Director grants a petition of the holding
10 company either to be included in more than one unitary
11 business group under subparagraph (C) or to include its
12 base income and factors only with members of a unitary
13 business group apportioning their business income
14 under a different subsection of Section 304.

15 (E) If the unitary business group members'
16 accounting periods differ, the common parent's
17 accounting period or, if there is no common parent, the
18 accounting period of the member that is expected to
19 have, on a recurring basis, the greatest Illinois
20 income tax liability must be used to determine whether
21 to use the apportionment method provided in subsection
22 (a) or subsection (h) of Section 304. The prohibition
23 against membership in a unitary business group for
24 taxpayers ordinarily required to apportion income
25 under different subsections of Section 304 does not
26 apply to taxpayers required to apportion income under

1 subsection (a) and subsection (h) of Section 304. The
2 provisions of this amendatory Act of 1998 apply to tax
3 years ending on or after December 31, 1998.

4 (28) Subchapter S corporation. The term "Subchapter S
5 corporation" means a corporation for which there is in
6 effect an election under Section 1362 of the Internal
7 Revenue Code, or for which there is a federal election to
8 opt out of the provisions of the Subchapter S Revision Act
9 of 1982 and have applied instead the prior federal
10 Subchapter S rules as in effect on July 1, 1982.

11 (30) Foreign person. The term "foreign person" means
12 any person who is a nonresident alien individual and any
13 nonindividual entity, regardless of where created or
14 organized, whose business activity outside the United
15 States is 80% or more of the entity's total business
16 activity.

17 (b) Other definitions.

18 (1) Words denoting number, gender, and so forth, when
19 used in this Act, where not otherwise distinctly expressed
20 or manifestly incompatible with the intent thereof:

21 (A) Words importing the singular include and apply
22 to several persons, parties or things;

23 (B) Words importing the plural include the
24 singular; and

25 (C) Words importing the masculine gender include

1 the feminine as well.

2 (2) "Company" or "association" as including successors
3 and assigns. The word "company" or "association", when used
4 in reference to a corporation, shall be deemed to embrace
5 the words "successors and assigns of such company or
6 association", and in like manner as if these last-named
7 words, or words of similar import, were expressed.

8 (3) Other terms. Any term used in any Section of this
9 Act with respect to the application of, or in connection
10 with, the provisions of any other Section of this Act shall
11 have the same meaning as in such other Section.

12 (Source: P.A. 96-641, eff. 8-24-09; 97-507, eff. 8-23-11.)

13 Section 15-15. The Economic Development for a Growing
14 Economy Tax Credit Act is amended by changing Section 5-15 as
15 follows:

16 (35 ILCS 10/5-15)

17 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
18 forth in this Act, a Taxpayer is entitled to a Credit against
19 or, as described in subsection (g) of this Section, a payment
20 towards taxes imposed pursuant to subsections (a) and (b) of
21 Section 201 of the Illinois Income Tax Act that may be imposed
22 on the Taxpayer for a taxable year beginning on or after
23 January 1, 1999, if the Taxpayer is awarded a Credit by the
24 Department under this Act for that taxable year.

1 (a) The Department shall make Credit awards under this Act
2 to foster job creation and retention in Illinois.

3 (b) A person that proposes a project to create new jobs in
4 Illinois must enter into an Agreement with the Department for
5 the Credit under this Act.

6 (c) The Credit shall be claimed for the taxable years
7 specified in the Agreement.

8 (d) The Credit shall not exceed the Incremental Income Tax
9 attributable to the project that is the subject of the
10 Agreement.

11 (e) Nothing herein shall prohibit a Tax Credit Award to an
12 Applicant that uses a PEO if all other award criteria are
13 satisfied.

14 (f) In lieu of the Credit allowed under this Act against
15 the taxes imposed pursuant to subsections (a) and (b) of
16 Section 201 of the Illinois Income Tax Act for any taxable year
17 ending on or after December 31, 2009, the Taxpayer may elect to
18 claim the Credit against its obligation to pay over withholding
19 under Section 704A of the Illinois Income Tax Act.

20 (1) The election under this subsection (f) may be made
21 only by a Taxpayer that (i) is primarily engaged in one of
22 the following business activities: water purification and
23 treatment, motor vehicle metal stamping, automobile
24 manufacturing, automobile and light duty motor vehicle
25 manufacturing, motor vehicle manufacturing, light truck
26 and utility vehicle manufacturing, heavy duty truck

1 manufacturing, motor vehicle body manufacturing, cable
2 television infrastructure design or manufacturing, or
3 wireless telecommunication or computing terminal device
4 design or manufacturing for use on public networks and (ii)
5 meets the following criteria:

6 (A) the Taxpayer (i) had an Illinois net loss or an
7 Illinois net loss deduction under Section 207 of the
8 Illinois Income Tax Act for the taxable year in which
9 the Credit is awarded, (ii) employed a minimum of 1,000
10 full-time employees in this State during the taxable
11 year in which the Credit is awarded, (iii) has an
12 Agreement under this Act on December 14, 2009 (the
13 effective date of Public Act 96-834), and (iv) is in
14 compliance with all provisions of that Agreement;

15 (B) the Taxpayer (i) had an Illinois net loss or an
16 Illinois net loss deduction under Section 207 of the
17 Illinois Income Tax Act for the taxable year in which
18 the Credit is awarded, (ii) employed a minimum of 1,000
19 full-time employees in this State during the taxable
20 year in which the Credit is awarded, and (iii) has
21 applied for an Agreement within 365 days after December
22 14, 2009 (the effective date of Public Act 96-834);

23 (C) the Taxpayer (i) had an Illinois net operating
24 loss carryforward under Section 207 of the Illinois
25 Income Tax Act in a taxable year ending during calendar
26 year 2008, (ii) has applied for an Agreement within 150

1 days after the effective date of this amendatory Act of
2 the 96th General Assembly, (iii) creates at least 400
3 new jobs in Illinois, (iv) retains at least 2,000 jobs
4 in Illinois that would have been at risk of relocation
5 out of Illinois over a 10-year period, and (v) makes a
6 capital investment of at least \$75,000,000;

7 (D) the Taxpayer (i) had an Illinois net operating
8 loss carryforward under Section 207 of the Illinois
9 Income Tax Act in a taxable year ending during calendar
10 year 2009, (ii) has applied for an Agreement within 150
11 days after the effective date of this amendatory Act of
12 the 96th General Assembly, (iii) creates at least 150
13 new jobs, (iv) retains at least 1,000 jobs in Illinois
14 that would have been at risk of relocation out of
15 Illinois over a 10-year period, and (v) makes a capital
16 investment of at least \$57,000,000; or

17 (E) the Taxpayer (i) employed at least 2,500
18 full-time employees in the State during the year in
19 which the Credit is awarded, (ii) commits to make at
20 least \$500,000,000 in combined capital improvements
21 and project costs under the Agreement, (iii) applies
22 for an Agreement between January 1, 2011 and June 30,
23 2011, (iv) executes an Agreement for the Credit during
24 calendar year 2011, and (v) was incorporated no more
25 than 5 years before the filing of an application for an
26 Agreement.

1 (1.5) The election under this subsection (f) may also
2 be made by a Taxpayer for any Credit awarded pursuant to an
3 agreement that was executed between January 1, 2011 and
4 June 30, 2011, if the Taxpayer (i) is primarily engaged in
5 the manufacture of inner tubes or tires, or both, from
6 natural and synthetic rubber, (ii) employs a minimum of
7 2,400 full-time employees in Illinois at the time of
8 application, (iii) creates at least 350 full-time jobs and
9 retains at least 250 full-time jobs in Illinois that would
10 have been at risk of being created or retained outside of
11 Illinois, and (iv) makes a capital investment of at least
12 \$200,000,000 at the project location.

13 (1.6) The election under this subsection (f) may also
14 be made by a Taxpayer for any Credit awarded pursuant to an
15 agreement that was executed within 150 days after the
16 effective date of this amendatory Act of the 97th General
17 Assembly, if the Taxpayer (i) is primarily engaged in the
18 operation of a discount department store, (ii) maintains
19 its corporate headquarters in Illinois, (iii) employs a
20 minimum of 4,250 full time employees at its corporate
21 headquarters in Illinois at the time of application, (iv)
22 retains at least 4,250 full time jobs in Illinois that
23 would have been at risk of being relocated outside of
24 Illinois, (v) had a minimum of \$40,000,000,000 in total
25 revenue in 2010, and (vi) makes a capital investment of at
26 least \$300,000,000 at the project location.

1 (1.7) Notwithstanding any other provision of law, the
2 election under this subsection (f) may also be made by a
3 Taxpayer for any Credit awarded pursuant to an agreement
4 that was executed or applied for on or after July 1, 2011
5 and on or before March 31, 2012, if the Taxpayer is
6 primarily engaged in the manufacture of original and
7 aftermarket filtration parts and products for automobiles,
8 motor vehicles, light duty motor vehicles, light trucks and
9 utility vehicles, and heavy duty trucks, (ii) employs a
10 minimum of 1,000 full-time employees in Illinois at the
11 time of application, (iii) creates at least 250 full-time
12 jobs in Illinois, (iv) relocates its corporate
13 headquarters to Illinois from another state, and (v) makes
14 a capital investment of at least \$4,000,000 at the project
15 location.

16 (2) An election under this subsection shall allow the
17 credit to be taken against payments otherwise due under
18 Section 704A of the Illinois Income Tax Act during the
19 first calendar year beginning after the end of the taxable
20 year in which the credit is awarded under this Act.

21 (3) The election shall be made in the form and manner
22 required by the Illinois Department of Revenue and, once
23 made, shall be irrevocable.

24 (4) If a Taxpayer who meets the requirements of
25 subparagraph (A) of paragraph (1) of this subsection (f)
26 elects to claim the Credit against its withholdings as

1 provided in this subsection (f), then, on and after the
2 date of the election, the terms of the Agreement between
3 the Taxpayer and the Department may not be further amended
4 during the term of the Agreement.

5 (g) A pass-through entity that has been awarded a credit
6 under this Act, its shareholders, or its partners may treat
7 some or all of the credit awarded pursuant to this Act as a tax
8 payment for purposes of the Illinois Income Tax Act. The term
9 "tax payment" means a payment as described in Article 6 or
10 Article 8 of the Illinois Income Tax Act or a composite payment
11 made by a pass-through entity on behalf of any of its
12 shareholders or partners to satisfy such shareholders' or
13 partners' taxes imposed pursuant to subsections (a) and (b) of
14 Section 201 of the Illinois Income Tax Act. In no event shall
15 the amount of the award credited pursuant to this Act exceed
16 the Illinois income tax liability of the pass-through entity or
17 its shareholders or partners for the taxable year.

18 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
19 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
20 3-4-11; 97-2, eff. 5-6-11.)

21 Section 15-17. The Business Location Efficiency Incentive
22 Act is amended by changing Section 25 as follows:

23 (35 ILCS 11/25)

24 (Section scheduled to be repealed on December 31, 2011)

1 Sec. 25. Repeal. This Act is repealed on December 31, 2016
2 ~~2011~~.

3 (Source: P.A. 94-966, eff. 1-1-07.)

4 Section 15-18. The Small Business Job Creation Tax Credit
5 Act is amended by changing Sections 10 and 25 as follows:

6 (35 ILCS 25/10)

7 Sec. 10. Definitions. In this Act:

8 "Applicant" means a person that is operating a business
9 located within the State of Illinois that is engaged in
10 interstate or intrastate commerce and either:

11 (1) has no more than 50 full-time employees, without
12 regard to the location of employment of such employees at
13 the beginning of the incentive period; or

14 (2) hired within the incentive period an employee who
15 had participated as worker-trainee in the Put Illinois to
16 Work Program during 2010.

17 In the case of any person that is a member of a unitary
18 business group within the meaning of subdivision (a)(27) of
19 Section 1501 of the Illinois Income Tax Act, "applicant" refers
20 to the unitary business group.

21 "Certificate" means the tax credit certificate issued by
22 the Department under Section 35 of this Act.

23 "Certificate of eligibility" means the certificate issued
24 by the Department under Section 20 of this Act.

1 "Credit" means the amount awarded by the Department to an
2 applicant by issuance of a certificate under Section 35 of this
3 Act for each new full-time equivalent employee hired or job
4 created.

5 "Department" means the Department of Commerce and Economic
6 Opportunity.

7 "Director" means the Director of the Department.

8 "Full-time employee" means an individual who is employed
9 for a basic wage for at least 35 hours each week or who renders
10 any other standard of service generally accepted by industry
11 custom or practice as full-time employment.

12 "Incentive period" means the period beginning on July 1 and
13 ending on June 30 of the following year. The first incentive
14 period shall begin on July 1, 2010 and the last incentive
15 period shall end ending on June 30, 2016 2011.

16 "Basic wage" means compensation for employment that is no
17 less than \$10 per hour or the equivalent salary for a new
18 employee.

19 "New employee" means a full-time employee:

20 (1) who first became employed by an applicant with less
21 than 50 full-time employees within the incentive period
22 whose hire results in a net increase in the applicant's
23 full-time Illinois employees and who is receiving a basic
24 wage as compensation; or

25 (2) who participated as a worker-trainee in the Put
26 Illinois to Work Program during 2010 and who is

1 subsequently hired during the incentive period by an
2 applicant and who is receiving a basic wage as
3 compensation.

4 The term "new employee" does not include:

5 (1) a person who was previously employed in Illinois by
6 the applicant or a related member prior to the onset of the
7 incentive period; or

8 (2) any individual who has a direct or indirect
9 ownership interest of at least 5% in the profits, capital,
10 or value of the applicant or a related member.

11 "Noncompliance date" means, in the case of an applicant
12 that is not complying with the requirements of the provisions
13 of this Act, the day following the last date upon which the
14 taxpayer was in compliance with the requirements of the
15 provisions of this Act, as determined by the Director, pursuant
16 to Section 45 of this Act.

17 "Put Illinois to Work Program" means a worker training and
18 employment program that was established by the State of
19 Illinois with funding from the United States Department of
20 Health and Human Services of Emergency Temporary Assistance to
21 Needy Families funds authorized by the American Recovery and
22 Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF
23 funds were in turn used by the State of Illinois to fund the
24 Put Illinois to Work Program.

25 "Related member" means a person that, with respect to the
26 applicant during any portion of the incentive period, is any

1 one of the following,

2 (1) An individual, if the individual and the members of
3 the individual's family (as defined in Section 318 of the
4 Internal Revenue Code) own directly, indirectly,
5 beneficially, or constructively, in the aggregate, at
6 least 50% of the value of the outstanding profits, capital,
7 stock, or other ownership interest in the applicant.

8 (2) A partnership, estate, or trust and any partner or
9 beneficiary, if the partnership, estate, or trust and its
10 partners or beneficiaries own directly, indirectly,
11 beneficially, or constructively, in the aggregate, at
12 least 50% of the profits, capital, stock, or other
13 ownership interest in the applicant.

14 (3) A corporation, and any party related to the
15 corporation in a manner that would require an attribution
16 of stock from the corporation under the attribution rules
17 of Section 318 of the Internal Revenue Code, if the
18 applicant and any other related member own, in the
19 aggregate, directly, indirectly, beneficially, or
20 constructively, at least 50% of the value of the
21 corporation's outstanding stock.

22 (4) A corporation and any party related to that
23 corporation in a manner that would require an attribution
24 of stock from the corporation to the party or from the
25 party to the corporation under the attribution rules of
26 Section 318 of the Internal Revenue Code, if the

1 corporation and all such related parties own, in the
2 aggregate, at least 50% of the profits, capital, stock, or
3 other ownership interest in the applicant.

4 (5) A person to or from whom there is attribution of
5 stock ownership in accordance with Section 1563(e) of the
6 Internal Revenue Code, except that for purposes of
7 determining whether a person is a related member under this
8 paragraph, "20%" shall be substituted for "5%" whenever
9 "5%" appears in Section 1563(e) of the Internal Revenue
10 Code.

11 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

12 (35 ILCS 25/25)

13 Sec. 25. Tax credit.

14 (a) Subject to the conditions set forth in this Act, an
15 applicant is entitled to a credit against payment of taxes
16 withheld under Section 704A of the Illinois Income Tax Act:

17 (1) for new employees who participated as
18 worker-trainees in the Put Illinois to Work Program during
19 2010:

20 (A) in the first calendar year ending on or after
21 the date that is 6 months after December 31, 2010, or
22 the date of hire, whichever is later. Under this
23 subparagraph, the applicant is entitled to one-half of
24 the credit allowable for each new employee who is
25 employed for at least 6 months after the date of hire;

1 and

2 (B) in the first calendar year ending on or after
3 the date that is 12 months after December 31, 2010, or
4 the date of hire, whichever is later. Under this
5 subparagraph, the applicant is entitled to one-half of
6 the credit allowable for each new employee who is
7 employed for at least 12 months after the date of hire;

8 (2) for all other new employees, in the first calendar
9 year ending on or after the date that is 12 months after
10 the date of hire of a new employee. The credit shall be
11 allowed as a credit to an applicant for each full-time
12 employee hired during the incentive period that results in
13 a net increase in full-time Illinois employees, where the
14 net increase in the employer's full-time Illinois
15 employees is maintained for at least 12 months.

16 (b) The Department shall make credit awards under this Act
17 to further job creation.

18 (c) The credit shall be claimed for the first calendar year
19 ending on or after the date on which the certificate is issued
20 by the Department.

21 (d) The credit shall not exceed \$2,500 per new employee
22 hired.

23 (e) The net increase in full-time Illinois employees,
24 measured on an annual full-time equivalent basis, shall be the
25 total number of full-time Illinois employees of the applicant
26 on the final day of the incentive period ~~June 30, 2011~~, minus

1 the number of full-time Illinois employees employed by the
2 employer on the first day of that same incentive period July 1,
3 ~~2010~~. For purposes of the calculation, an employer that begins
4 doing business in this State during the incentive period, as
5 determined by the Director, shall be treated as having zero
6 Illinois employees on the first day of the incentive period
7 ~~July 1, 2010~~.

8 (f) The net increase in the number of full-time Illinois
9 employees of the applicant under subsection (e) must be
10 sustained continuously for at least 12 months, starting with
11 the date of hire of a new employee during the incentive period.
12 Eligibility for the credit does not depend on the continuous
13 employment of any particular individual. For purposes of this
14 subsection (f), if a new employee ceases to be employed before
15 the completion of the 12-month period for any reason, the net
16 increase in the number of full-time Illinois employees shall be
17 treated as continuous if a different new employee is hired as a
18 replacement within a reasonable time for the same position.

19 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

20 Section 15-20. The Use Tax Act is amended by changing
21 Sections 3-5, 3-10, and 3-90 as follows:

22 (35 ILCS 105/3-5)

23 Sec. 3-5. Exemptions. Use of the following tangible
24 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 not-for-profit
9 Illinois county fair association for use in conducting,
10 operating, or 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) Personal property purchased by a governmental body, by

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

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

17 (6) Until July 1, 2003 and beginning again on September 1,
18 2004 through August 30, 2014, graphic arts machinery and
19 equipment, including repair and replacement parts, both new and
20 used, and including that manufactured on special order,
21 certified by the purchaser to be used primarily for graphic
22 arts production, and including machinery and equipment
23 purchased for lease. Equipment includes chemicals or chemicals
24 acting as catalysts but only if the chemicals or chemicals
25 acting as catalysts effect a direct and immediate change upon a
26 graphic arts product.

1 (7) Farm chemicals.

2 (8) Legal tender, currency, medallions, or gold or silver
3 coinage issued by the State of Illinois, the government of the
4 United States of America, or the government of any foreign
5 country, and bullion.

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

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

20 (11) Farm machinery and equipment, both new and used,
21 including that manufactured on special order, certified by the
22 purchaser to be used primarily for production agriculture or
23 State or federal agricultural programs, including individual
24 replacement parts for the machinery and equipment, including
25 machinery and equipment purchased for lease, and including
26 implements of husbandry defined in Section 1-130 of the

1 Illinois Vehicle Code, farm machinery and agricultural
2 chemical and fertilizer spreaders, and nurse wagons required to
3 be registered under Section 3-809 of the Illinois Vehicle Code,
4 but excluding other motor vehicles required to be registered
5 under the Illinois Vehicle Code. Horticultural polyhouses or
6 hoop houses used for propagating, growing, or overwintering
7 plants shall be considered farm machinery and equipment under
8 this item (11). Agricultural chemical tender tanks and dry
9 boxes shall include units sold separately from a motor vehicle
10 required to be licensed and units sold mounted on a motor
11 vehicle required to be licensed if the selling price of the
12 tender is separately stated.

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

21 Farm machinery and equipment also includes computers,
22 sensors, software, and related equipment used primarily in the
23 computer-assisted operation of production agriculture
24 facilities, equipment, and activities such as, but not limited
25 to, the collection, monitoring, and correlation of animal and
26 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (11) is exempt from the
2 provisions of Section 3-90.

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

10 (13) Proceeds of mandatory service charges separately
11 stated on customers' bills for the purchase and consumption of
12 food and beverages purchased at retail from a retailer, to the
13 extent that the proceeds of the service charge are in fact
14 turned over as tips or as a substitute for tips to the
15 employees who participate directly in preparing, serving,
16 hosting or cleaning up the food or beverage function with
17 respect to which the service charge is imposed.

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

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

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

18 (18) Manufacturing and assembling machinery and equipment
19 used primarily in the process of manufacturing or assembling
20 tangible personal property for wholesale or retail sale or
21 lease, whether that sale or lease is made directly by the
22 manufacturer or by some other person, whether the materials
23 used in the process are owned by the manufacturer or some other
24 person, or whether that sale or lease is made apart from or as
25 an incident to the seller's engaging in the service occupation
26 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. This item (21) is exempt from the provisions
16 of Section 3-90, and the exemption provided for under this item
17 (21) applies for all periods beginning May 30, 1995, but no
18 claim for credit or refund is allowed on or after January 1,
19 2008 for such taxes paid during the period beginning May 30,
20 2000 and ending on January 1, 2008.

21 (22) Computers and communications equipment utilized for
22 any hospital purpose and equipment used in the diagnosis,
23 analysis, or treatment of hospital patients purchased by a
24 lessor who leases the equipment, under a lease of one year or
25 longer executed or in effect at the time the lessor would
26 otherwise be subject to the tax imposed by this Act, to a

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

18 (23) Personal property purchased by a lessor who leases the
19 property, under a lease of one year or longer executed or in
20 effect at the time the lessor would otherwise be subject to the
21 tax imposed by this Act, to a governmental body that has been
22 issued an active sales tax exemption identification number by
23 the Department under Section 1g of the Retailers' Occupation
24 Tax Act. If the property is leased in a manner that does not
25 qualify for this exemption or used in any other non-exempt
26 manner, the lessor shall be liable for the tax imposed under

1 this Act or the Service Use Tax Act, as the case may be, based
2 on the fair market value of the property at the time the
3 non-qualifying use occurs. No lessor shall collect or attempt
4 to collect an amount (however designated) that purports to
5 reimburse that lessor for the tax imposed by this Act or the
6 Service Use Tax Act, as the case may be, if the tax has not been
7 paid by the lessor. If a lessor improperly collects any such
8 amount from the lessee, the lessee shall have a legal right to
9 claim a refund of that amount from the lessor. If, however,
10 that amount is not refunded to the lessee for any reason, the
11 lessor is liable to pay that amount to the Department.

12 (24) 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 (25) 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,

1 bridges, sidewalks, waste disposal systems, water and sewer
2 line extensions, water distribution and purification
3 facilities, storm water drainage and retention facilities, and
4 sewage treatment facilities, resulting from a State or
5 federally declared disaster in Illinois or bordering Illinois
6 when such repairs are initiated on facilities located in the
7 declared disaster area within 6 months after the disaster.

8 (26) Beginning July 1, 1999, game or game birds purchased
9 at a "game breeding and hunting preserve area" as that term is
10 used in the Wildlife Code. This paragraph is exempt from the
11 provisions of Section 3-90.

12 (27) A motor vehicle, as that term is defined in Section
13 1-146 of the Illinois Vehicle Code, that is donated to a
14 corporation, limited liability company, society, association,
15 foundation, or institution that is determined by the Department
16 to be organized and operated exclusively for educational
17 purposes. For purposes of this exemption, "a corporation,
18 limited liability company, society, association, foundation,
19 or institution organized and operated exclusively for
20 educational purposes" means all tax-supported public schools,
21 private schools that offer systematic instruction in useful
22 branches of learning by methods common to public schools and
23 that compare favorably in their scope and intensity with the
24 course of study presented in tax-supported schools, and
25 vocational or technical schools or institutes organized and
26 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 (28) 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 3-90.

18 (29) 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

1 is exempt from the provisions of Section 3-90.

2 (30) Beginning January 1, 2001 and through June 30, 2016
3 ~~June 30, 2011~~, food for human consumption that is to be
4 consumed off the premises where it is sold (other than
5 alcoholic beverages, soft drinks, and food that has been
6 prepared for immediate consumption) and prescription and
7 nonprescription medicines, drugs, medical appliances, and
8 insulin, urine testing materials, syringes, and needles used by
9 diabetics, for human use, when purchased for use by a person
10 receiving medical assistance under Article V of the Illinois
11 Public Aid Code who resides in a licensed long-term care
12 facility, as defined in the Nursing Home Care Act, or in a
13 licensed facility as defined in the ID/DD Community Care Act or
14 the Specialized Mental Health Rehabilitation Act.

15 (31) Beginning on the effective date of this amendatory Act
16 of the 92nd General Assembly, computers and communications
17 equipment utilized for any hospital purpose and equipment used
18 in the diagnosis, analysis, or treatment of hospital patients
19 purchased by a lessor who leases the equipment, under a lease
20 of one year or longer executed or in effect at the time the
21 lessor would otherwise be subject to the tax imposed by this
22 Act, to a 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 nonexempt manner, the lessor shall be liable for the

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

14 (32) Beginning on the effective date of this amendatory Act
15 of the 92nd General Assembly, personal property purchased by a
16 lessor who leases the property, under a lease of one year or
17 longer executed or in effect at the time the lessor would
18 otherwise be subject to the tax imposed by this Act, to a
19 governmental body that has been issued an active sales tax
20 exemption identification number by the Department under
21 Section 1g of the Retailers' Occupation Tax Act. If the
22 property is leased in a manner that does not qualify for this
23 exemption or used in any other nonexempt manner, the lessor
24 shall be liable for the tax imposed under this Act or the
25 Service Use Tax Act, as the case may be, based on the fair
26 market value of the property at the time the nonqualifying use

1 occurs. No lessor shall collect or attempt to collect an amount
2 (however designated) that purports to reimburse that lessor for
3 the tax imposed by this Act or the Service Use Tax Act, as the
4 case may be, if the tax has not been paid by the lessor. If a
5 lessor improperly collects any such amount from the lessee, the
6 lessee shall have a legal right to claim a refund of that
7 amount from the lessor. If, however, that amount is not
8 refunded to the lessee for any reason, the lessor is liable to
9 pay that amount to the Department. This paragraph is exempt
10 from the provisions of Section 3-90.

11 (33) On and after July 1, 2003 and through June 30, 2004,
12 the use in this State of motor vehicles of the second division
13 with a gross vehicle weight in excess of 8,000 pounds and that
14 are subject to the commercial distribution fee imposed under
15 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
16 1, 2004 and through June 30, 2005, the use in this State of
17 motor vehicles of the second division: (i) with a gross vehicle
18 weight rating in excess of 8,000 pounds; (ii) that are subject
19 to the commercial distribution fee imposed under Section
20 3-815.1 of the Illinois Vehicle Code; and (iii) that are
21 primarily used for commercial purposes. Through June 30, 2005,
22 this exemption applies to repair and replacement parts added
23 after the initial purchase of such a motor vehicle if that
24 motor vehicle is used in a manner that would qualify for the
25 rolling stock exemption otherwise provided for in this Act. For
26 purposes of this paragraph, the term "used for commercial

1 purposes" means the transportation of persons or property in
2 furtherance of any commercial or industrial enterprise,
3 whether for-hire or not.

4 (34) Beginning January 1, 2008, tangible personal property
5 used in the construction or maintenance of a community water
6 supply, as defined under Section 3.145 of the Environmental
7 Protection Act, that is operated by a not-for-profit
8 corporation that holds a valid water supply permit issued under
9 Title IV of the Environmental Protection Act. This paragraph is
10 exempt from the provisions of Section 3-90.

11 (35) Beginning January 1, 2010, materials, parts,
12 equipment, components, and furnishings incorporated into or
13 upon an aircraft as part of the modification, refurbishment,
14 completion, replacement, repair, or maintenance of the
15 aircraft. This exemption includes consumable supplies used in
16 the modification, refurbishment, completion, replacement,
17 repair, and maintenance of aircraft, but excludes any
18 materials, parts, equipment, components, and consumable
19 supplies used in the modification, replacement, repair, and
20 maintenance of aircraft engines or power plants, whether such
21 engines or power plants are installed or uninstalled upon any
22 such aircraft. "Consumable supplies" include, but are not
23 limited to, adhesive, tape, sandpaper, general purpose
24 lubricants, cleaning solution, latex gloves, and protective
25 films. This exemption applies only to those organizations that
26 (i) hold an Air Agency Certificate and are empowered to operate

1 an approved repair station by the Federal Aviation
2 Administration, (ii) have a Class IV Rating, and (iii) conduct
3 operations in accordance with Part 145 of the Federal Aviation
4 Regulations. The exemption does not include aircraft operated
5 by a commercial air carrier providing scheduled passenger air
6 service pursuant to authority issued under Part 121 or Part 129
7 of the Federal Aviation Regulations.

8 (36) Tangible personal property purchased by a
9 public-facilities corporation, as described in Section
10 11-65-10 of the Illinois Municipal Code, for purposes of
11 constructing or furnishing a municipal convention hall, but
12 only if the legal title to the municipal convention hall is
13 transferred to the municipality without any further
14 consideration by or on behalf of the municipality at the time
15 of the completion of the municipal convention hall or upon the
16 retirement or redemption of any bonds or other debt instruments
17 issued by the public-facilities corporation in connection with
18 the development of the municipal convention hall. This
19 exemption includes existing public-facilities corporations as
20 provided in Section 11-65-25 of the Illinois Municipal Code.
21 This paragraph is exempt from the provisions of Section 3-90.

22 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
23 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
24 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431, eff.
25 8-16-11; revised 9-12-11.)

1 (35 ILCS 105/3-10)

2 Sec. 3-10. Rate of tax. Unless otherwise provided in this
3 Section, the tax imposed by this Act is at the rate of 6.25% of
4 either the selling price or the fair market value, if any, of
5 the tangible personal property. In all cases where property
6 functionally used or consumed is the same as the property that
7 was purchased at retail, then the tax is imposed on the selling
8 price of the property. In all cases where property functionally
9 used or consumed is a by-product or waste product that has been
10 refined, manufactured, or produced from property purchased at
11 retail, then the tax is imposed on the lower of the fair market
12 value, if any, of the specific property so used in this State
13 or on the selling price of the property purchased at retail.
14 For purposes of this Section "fair market value" means the
15 price at which property would change hands between a willing
16 buyer and a willing seller, neither being under any compulsion
17 to buy or sell and both having reasonable knowledge of the
18 relevant facts. The fair market value shall be established by
19 Illinois sales by the taxpayer of the same property as that
20 functionally used or consumed, or if there are no such sales by
21 the taxpayer, then comparable sales or purchases of property of
22 like kind and character in Illinois.

23 Beginning on July 1, 2000 and through December 31, 2000,
24 with respect to motor fuel, as defined in Section 1.1 of the
25 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
26 the Use Tax Act, the tax is imposed at the rate of 1.25%.

1 Beginning on August 6, 2010 through August 15, 2010, with
2 respect to sales tax holiday items as defined in Section 3-6 of
3 this Act, the tax is imposed at the rate of 1.25%.

4 With respect to gasohol, the tax imposed by this Act
5 applies to (i) 70% of the proceeds of sales made on or after
6 January 1, 1990, and before July 1, 2003, (ii) 80% of the
7 proceeds of sales made on or after July 1, 2003 and on or
8 before December 31, 2018 ~~2013~~, and (iii) 100% of the proceeds
9 of sales made thereafter. If, at any time, however, the tax
10 under this Act on sales of gasohol is imposed at the rate of
11 1.25%, then the tax imposed by this Act applies to 100% of the
12 proceeds of sales of gasohol made during that time.

13 With respect to majority blended ethanol fuel, the tax
14 imposed by this Act does not apply to the proceeds of sales
15 made on or after July 1, 2003 and on or before December 31,
16 2018 ~~2013~~ but applies to 100% of the proceeds of sales made
17 thereafter.

18 With respect to biodiesel blends with no less than 1% and
19 no more than 10% biodiesel, the tax imposed by this Act applies
20 to (i) 80% of the proceeds of sales made on or after July 1,
21 2003 and on or before December 31, 2018 ~~2013~~ and (ii) 100% of
22 the proceeds of sales made thereafter. If, at any time,
23 however, the tax under this Act on sales of biodiesel blends
24 with no less than 1% and no more than 10% biodiesel is imposed
25 at the rate of 1.25%, then the tax imposed by this Act applies
26 to 100% of the proceeds of sales of biodiesel blends with no

1 less than 1% and no more than 10% biodiesel made during that
2 time.

3 With respect to 100% biodiesel and biodiesel blends with
4 more than 10% but no more than 99% biodiesel, the tax imposed
5 by this Act does not apply to the proceeds of sales made on or
6 after July 1, 2003 and on or before December 31, 2018 ~~2013~~ but
7 applies to 100% of the proceeds of sales made thereafter.

8 With respect to food for human consumption that is to be
9 consumed off the premises where it is sold (other than
10 alcoholic beverages, soft drinks, and food that has been
11 prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances,
13 modifications to a motor vehicle for the purpose of rendering
14 it usable by a disabled person, and insulin, urine testing
15 materials, syringes, and needles used by diabetics, for human
16 use, the tax is imposed at the rate of 1%. For the purposes of
17 this Section, until September 1, 2009: the term "soft drinks"
18 means any complete, finished, ready-to-use, non-alcoholic
19 drink, whether carbonated or not, including but not limited to
20 soda water, cola, fruit juice, vegetable juice, carbonated
21 water, and all other preparations commonly known as soft drinks
22 of whatever kind or description that are contained in any
23 closed or sealed bottle, can, carton, or container, regardless
24 of size; but "soft drinks" does not include coffee, tea,
25 non-carbonated water, infant formula, milk or milk products as
26 defined in the Grade A Pasteurized Milk and Milk Products Act,

1 or drinks containing 50% or more natural fruit or vegetable
2 juice.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "soft drinks" means non-alcoholic
5 beverages that contain natural or artificial sweeteners. "Soft
6 drinks" do not include beverages that contain milk or milk
7 products, soy, rice or similar milk substitutes, or greater
8 than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other
10 provisions of this Act, "food for human consumption that is to
11 be consumed off the premises where it is sold" includes all
12 food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine. Beginning
15 August 1, 2009, and notwithstanding any other provisions of
16 this Act, "food for human consumption that is to be consumed
17 off the premises where it is sold" includes all food sold
18 through a vending machine, except soft drinks, candy, and food
19 products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "food for human consumption that
23 is to be consumed off the premises where it is sold" does not
24 include candy. For purposes of this Section, "candy" means a
25 preparation of sugar, honey, or other natural or artificial
26 sweeteners in combination with chocolate, fruits, nuts or other

1 ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "nonprescription medicines and
6 drugs" does not include grooming and hygiene products. For
7 purposes of this Section, "grooming and hygiene products"
8 includes, but is not limited to, soaps and cleaning solutions,
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
10 lotions and screens, unless those products are available by
11 prescription only, regardless of whether the products meet the
12 definition of "over-the-counter-drugs". For the purposes of
13 this paragraph, "over-the-counter-drug" means a drug for human
14 use that contains a label that identifies the product as a drug
15 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
16 label includes:

17 (A) A "Drug Facts" panel; or

18 (B) A statement of the "active ingredient(s)" with a
19 list of those ingredients contained in the compound,
20 substance or preparation.

21 If the property that is purchased at retail from a retailer
22 is acquired outside Illinois and used outside Illinois before
23 being brought to Illinois for use here and is taxable under
24 this Act, the "selling price" on which the tax is computed
25 shall be reduced by an amount that represents a reasonable
26 allowance for depreciation for the period of prior out-of-state

1 use.

2 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
3 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

4 (35 ILCS 105/3-90)

5 Sec. 3-90. Sunset of exemptions, credits, and deductions.

6 (a) The application of every exemption, credit, and
7 deduction against tax imposed by this Act that becomes law
8 after the effective date of this amendatory Act of 1994 shall
9 be limited by a reasonable and appropriate sunset date. A
10 taxpayer is not entitled to take the exemption, credit, or
11 deduction beginning on the sunset date and thereafter. Except
12 as provided in subsection (b) of this Section, if ~~if~~ a
13 reasonable and appropriate sunset date is not specified in the
14 Public Act that creates the exemption, credit, or deduction, a
15 taxpayer shall not be entitled to take the exemption, credit,
16 or deduction beginning 5 years after the effective date of the
17 Public Act creating the exemption, credit, or deduction and
18 thereafter.

19 (b) Notwithstanding the provisions of subsection (a) of
20 this Section, the sunset date of any exemption, credit, or
21 deduction that is scheduled to expire in 2011, 2012, or 2013 by
22 operation of this Section shall be extended by 5 years.

23 (Source: P.A. 88-660, eff. 9-16-94; 89-235, eff. 8-4-95.)

24 Section 15-25. The Service Use Tax Act is amended by

1 changing Sections 3-5, 3-10, and 3-75 as follows:

2 (35 ILCS 110/3-5)

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

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

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

15 (3) Personal property purchased by a not-for-profit arts or
16 cultural organization that establishes, by proof required by
17 the Department by rule, that it has received an exemption under
18 Section 501(c)(3) of the Internal Revenue Code and that is
19 organized and operated primarily for the presentation or
20 support of arts or cultural programming, activities, or
21 services. These organizations include, but are not limited to,
22 music and dramatic arts organizations such as symphony
23 orchestras and theatrical groups, arts and cultural service
24 organizations, local arts councils, visual arts organizations,
25 and media arts organizations. On and after the effective date

1 of this amendatory Act of the 92nd General Assembly, however,
2 an entity otherwise eligible for this exemption shall not make
3 tax-free purchases unless it has an active identification
4 number issued by the Department.

5 (4) Legal tender, currency, medallions, or gold or silver
6 coinage issued by the State of Illinois, the government of the
7 United States of America, or the government of any foreign
8 country, and bullion.

9 (5) Until July 1, 2003 and beginning again on September 1,
10 2004 through August 30, 2014, graphic arts machinery and
11 equipment, including repair and replacement parts, both new and
12 used, and including that manufactured on special order or
13 purchased for lease, certified by the purchaser to be used
14 primarily for graphic arts production. Equipment includes
15 chemicals or chemicals acting as catalysts but only if the
16 chemicals or chemicals acting as catalysts effect a direct and
17 immediate change upon a graphic arts product.

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

21 (7) Farm machinery and equipment, both new and used,
22 including that manufactured on special order, certified by the
23 purchaser to be used primarily for production agriculture or
24 State or federal agricultural programs, including individual
25 replacement parts for the machinery and equipment, including
26 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (7). Agricultural chemical tender tanks and dry boxes
10 shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed if the selling price of the
13 tender is separately stated.

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

22 Farm machinery and equipment also includes computers,
23 sensors, software, and related equipment used primarily in the
24 computer-assisted operation of production agriculture
25 facilities, equipment, and activities such as, but not limited
26 to, the collection, monitoring, and correlation of animal and

1 crop data for the purpose of formulating animal diets and
2 agricultural chemicals. This item (7) is exempt from the
3 provisions of Section 3-75.

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

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

20 (10) Until July 1, 2003, oil field exploration, drilling,
21 and production equipment, including (i) rigs and parts of rigs,
22 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
23 tubular goods, including casing and drill strings, (iii) pumps
24 and pump-jack units, (iv) storage tanks and flow lines, (v) any
25 individual replacement part for oil field exploration,
26 drilling, and production equipment, and (vi) machinery and

1 equipment purchased for lease; but excluding motor vehicles
2 required to be registered under the Illinois Vehicle Code.

3 (11) Proceeds from the sale of photoprocessing machinery
4 and equipment, including repair and replacement parts, both new
5 and used, including that manufactured on special order,
6 certified by the purchaser to be used primarily for
7 photoprocessing, and including photoprocessing machinery and
8 equipment purchased for lease.

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

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

17 (14) Horses, or interests in horses, registered with and
18 meeting the requirements of any of the Arabian Horse Club
19 Registry of America, Appaloosa Horse Club, American Quarter
20 Horse Association, United States Trotting Association, or
21 Jockey Club, as appropriate, used for purposes of breeding or
22 racing for prizes. This item (14) is exempt from the provisions
23 of Section 3-75, and the exemption provided for under this item
24 (14) applies for all periods beginning May 30, 1995, but no
25 claim for credit or refund is allowed on or after the effective
26 date of this amendatory Act of the 95th General Assembly for

1 such taxes paid during the period beginning May 30, 2000 and
2 ending on the effective date of this amendatory Act of the 95th
3 General Assembly.

4 (15) Computers and communications equipment utilized for
5 any hospital purpose and equipment used in the diagnosis,
6 analysis, or treatment of hospital patients purchased by a
7 lessor who leases the equipment, under a lease of one year or
8 longer executed or in effect at the time the lessor would
9 otherwise be subject to the tax imposed by this Act, to a
10 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 non-exempt manner, the lessor shall be liable for the
15 tax imposed under this Act or the Use Tax Act, as the case may
16 be, based on the fair market value of the property at the time
17 the non-qualifying use occurs. No lessor shall collect or
18 attempt to collect an amount (however designated) that purports
19 to reimburse that lessor for the tax imposed by this Act or the
20 Use Tax Act, as the case may be, if the tax has not been paid by
21 the lessor. If a lessor improperly collects any such amount
22 from the lessee, the lessee shall have a legal right to claim a
23 refund of that amount from the lessor. If, however, that amount
24 is not refunded to the lessee for any reason, the lessor is
25 liable to pay that amount to the Department.

26 (16) Personal property purchased by a lessor who leases the

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

20 (17) Beginning with taxable years ending on or after
21 December 31, 1995 and ending with taxable years ending on or
22 before December 31, 2004, personal property that is donated for
23 disaster relief to be used in a State or federally declared
24 disaster area in Illinois or bordering Illinois by a
25 manufacturer or retailer that is registered in this State to a
26 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" as that term is
18 used in the Wildlife Code. This paragraph is exempt from the
19 provisions of Section 3-75.

20 (20) 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,

1 or institution organized and operated exclusively for
2 educational purposes" means all tax-supported public schools,
3 private schools that offer systematic instruction in useful
4 branches of learning by methods common to public schools and
5 that compare favorably in their scope and intensity with the
6 course of study presented in tax-supported schools, and
7 vocational or technical schools or institutes organized and
8 operated exclusively to provide a course of study of not less
9 than 6 weeks duration and designed to prepare individuals to
10 follow a trade or to pursue a manual, technical, mechanical,
11 industrial, business, or commercial occupation.

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

26 (22) Beginning January 1, 2000 and through December 31,

1 2001, new or used automatic vending machines that prepare and
2 serve hot food and beverages, including coffee, soup, and other
3 items, and replacement parts for these machines. Beginning
4 January 1, 2002 and through June 30, 2003, machines and parts
5 for machines used in commercial, coin-operated amusement and
6 vending business if a use or occupation tax is paid on the
7 gross receipts derived from the use of the commercial,
8 coin-operated amusement and vending machines. This paragraph
9 is exempt from the provisions of Section 3-75.

10 (23) Beginning August 23, 2001 and through June 30, 2016
11 ~~June 30, 2011~~, food for human consumption that is to be
12 consumed off the premises where it is sold (other than
13 alcoholic beverages, soft drinks, and food that has been
14 prepared for immediate consumption) and prescription and
15 nonprescription medicines, drugs, medical appliances, and
16 insulin, urine testing materials, syringes, and needles used by
17 diabetics, for human use, when purchased for use by a person
18 receiving medical assistance under Article V of the Illinois
19 Public Aid Code who resides in a licensed long-term care
20 facility, as defined in the Nursing Home Care Act, or in a
21 licensed facility as defined in the ID/DD Community Care Act or
22 the Specialized Mental Health Rehabilitation Act.

23 (24) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, computers and communications
25 equipment utilized for any hospital purpose and equipment used
26 in the diagnosis, analysis, or treatment of hospital patients

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

21 (25) Beginning on the effective date of this amendatory Act
22 of the 92nd General Assembly, personal property purchased by a
23 lessor who leases the property, 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 governmental body that has been issued an active tax exemption

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

17 (26) Beginning January 1, 2008, tangible personal property
18 used in the construction or maintenance of a community water
19 supply, as defined under Section 3.145 of the Environmental
20 Protection Act, that is operated by a not-for-profit
21 corporation that holds a valid water supply permit issued under
22 Title IV of the Environmental Protection Act. This paragraph is
23 exempt from the provisions of Section 3-75.

24 (27) Beginning January 1, 2010, materials, parts,
25 equipment, components, and furnishings incorporated into or
26 upon an aircraft as part of the modification, refurbishment,

1 completion, replacement, repair, or maintenance of the
2 aircraft. This exemption includes consumable supplies used in
3 the modification, refurbishment, completion, replacement,
4 repair, and maintenance of aircraft, but excludes any
5 materials, parts, equipment, components, and consumable
6 supplies used in the modification, replacement, repair, and
7 maintenance of aircraft engines or power plants, whether such
8 engines or power plants are installed or uninstalled upon any
9 such aircraft. "Consumable supplies" include, but are not
10 limited to, adhesive, tape, sandpaper, general purpose
11 lubricants, cleaning solution, latex gloves, and protective
12 films. This exemption applies only to those organizations that
13 (i) hold an Air Agency Certificate and are empowered to operate
14 an approved repair station by the Federal Aviation
15 Administration, (ii) have a Class IV Rating, and (iii) conduct
16 operations in accordance with Part 145 of the Federal Aviation
17 Regulations. The exemption does not include aircraft operated
18 by a commercial air carrier providing scheduled passenger air
19 service pursuant to authority issued under Part 121 or Part 129
20 of the Federal Aviation Regulations.

21 (28) Tangible personal property purchased by a
22 public-facilities corporation, as described in Section
23 11-65-10 of the Illinois Municipal Code, for purposes of
24 constructing or furnishing a municipal convention hall, but
25 only if the legal title to the municipal convention hall is
26 transferred to the municipality without any further

1 consideration by or on behalf of the municipality at the time
2 of the completion of the municipal convention hall or upon the
3 retirement or redemption of any bonds or other debt instruments
4 issued by the public-facilities corporation in connection with
5 the development of the municipal convention hall. This
6 exemption includes existing public-facilities corporations as
7 provided in Section 11-65-25 of the Illinois Municipal Code.
8 This paragraph is exempt from the provisions of Section 3-75.

9 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
10 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
11 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431, eff.
12 8-16-11; revised 9-12-11.)

13 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

14 Sec. 3-10. Rate of tax. Unless otherwise provided in this
15 Section, the tax imposed by this Act is at the rate of 6.25% of
16 the selling price of tangible personal property transferred as
17 an incident to the sale of service, but, for the purpose of
18 computing this tax, in no event shall the selling price be less
19 than the cost price of the property to the serviceman.

20 Beginning on July 1, 2000 and through December 31, 2000,
21 with respect to motor fuel, as defined in Section 1.1 of the
22 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
23 the Use Tax Act, the tax is imposed at the rate of 1.25%.

24 With respect to gasohol, as defined in the Use Tax Act, the
25 tax imposed by this Act applies to (i) 70% of the selling price

1 of property transferred as an incident to the sale of service
2 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
3 of the selling price of property transferred as an incident to
4 the sale of service on or after July 1, 2003 and on or before
5 December 31, 2018 ~~2013~~, and (iii) 100% of the selling price
6 thereafter. If, at any time, however, the tax under this Act on
7 sales of gasohol, as defined in the Use Tax Act, is imposed at
8 the rate of 1.25%, then the tax imposed by this Act applies to
9 100% of the proceeds of sales of gasohol made during that time.

10 With respect to majority blended ethanol fuel, as defined
11 in the Use Tax Act, the tax imposed by this Act does not apply
12 to the selling price of property transferred as an incident to
13 the sale of service on or after July 1, 2003 and on or before
14 December 31, 2018 ~~2013~~ but applies to 100% of the selling price
15 thereafter.

16 With respect to biodiesel blends, as defined in the Use Tax
17 Act, with no less than 1% and no more than 10% biodiesel, the
18 tax imposed by this Act applies to (i) 80% of the selling price
19 of property transferred as an incident to the sale of service
20 on or after July 1, 2003 and on or before December 31, 2018
21 ~~2013~~ and (ii) 100% of the proceeds of the selling price
22 thereafter. If, at any time, however, the tax under this Act on
23 sales of biodiesel blends, as defined in the Use Tax Act, with
24 no less than 1% and no more than 10% biodiesel is imposed at
25 the rate of 1.25%, then the tax imposed by this Act applies to
26 100% of the proceeds of sales of biodiesel blends with no less

1 than 1% and no more than 10% biodiesel made during that time.

2 With respect to 100% biodiesel, as defined in the Use Tax
3 Act, and biodiesel blends, as defined in the Use Tax Act, with
4 more than 10% but no more than 99% biodiesel, the tax imposed
5 by this Act does not apply to the proceeds of the selling price
6 of property transferred as an incident to the sale of service
7 on or after July 1, 2003 and on or before December 31, 2018
8 ~~2013~~ but applies to 100% of the selling price thereafter.

9 At the election of any registered serviceman made for each
10 fiscal year, sales of service in which the aggregate annual
11 cost price of tangible personal property transferred as an
12 incident to the sales of service is less than 35%, or 75% in
13 the case of servicemen transferring prescription drugs or
14 servicemen engaged in graphic arts production, of the aggregate
15 annual total gross receipts from all sales of service, the tax
16 imposed by this Act shall be based on the serviceman's cost
17 price of the tangible personal property transferred as an
18 incident to the sale of those services.

19 The tax shall be imposed at the rate of 1% on food prepared
20 for immediate consumption and transferred incident to a sale of
21 service subject to this Act or the Service Occupation Tax Act
22 by an entity licensed under the Hospital Licensing Act, the
23 Nursing Home Care Act, the ID/DD Community Care Act, the
24 Specialized Mental Health Rehabilitation Act, or the Child Care
25 Act of 1969. The tax shall also be imposed at the rate of 1% on
26 food for human consumption that is to be consumed off the

1 premises where it is sold (other than alcoholic beverages, soft
2 drinks, and food that has been prepared for immediate
3 consumption and is not otherwise included in this paragraph)
4 and prescription and nonprescription medicines, drugs, medical
5 appliances, modifications to a motor vehicle for the purpose of
6 rendering it usable by a disabled person, and insulin, urine
7 testing materials, syringes, and needles used by diabetics, for
8 human use. For the purposes of this Section, until September 1,
9 2009: the term "soft drinks" means any complete, finished,
10 ready-to-use, non-alcoholic drink, whether carbonated or not,
11 including but not limited to soda water, cola, fruit juice,
12 vegetable juice, carbonated water, and all other preparations
13 commonly known as soft drinks of whatever kind or description
14 that are contained in any closed or sealed bottle, can, carton,
15 or container, regardless of size; but "soft drinks" does not
16 include coffee, tea, non-carbonated water, infant formula,
17 milk or milk products as defined in the Grade A Pasteurized
18 Milk and Milk Products Act, or drinks containing 50% or more
19 natural fruit or vegetable juice.

20 Notwithstanding any other provisions of this Act,
21 beginning September 1, 2009, "soft drinks" means non-alcoholic
22 beverages that contain natural or artificial sweeteners. "Soft
23 drinks" do not include beverages that contain milk or milk
24 products, soy, rice or similar milk substitutes, or greater
25 than 50% of vegetable or fruit juice by volume.

26 Until August 1, 2009, and notwithstanding any other

1 provisions of this Act, "food for human consumption that is to
2 be consumed off the premises where it is sold" includes all
3 food sold through a vending machine, except soft drinks and
4 food products that are dispensed hot from a vending machine,
5 regardless of the location of the vending machine. Beginning
6 August 1, 2009, and notwithstanding any other provisions of
7 this Act, "food for human consumption that is to be consumed
8 off the premises where it is sold" includes all food sold
9 through a vending machine, except soft drinks, candy, and food
10 products that are dispensed hot from a vending machine,
11 regardless of the location of the vending machine.

12 Notwithstanding any other provisions of this Act,
13 beginning September 1, 2009, "food for human consumption that
14 is to be consumed off the premises where it is sold" does not
15 include candy. For purposes of this Section, "candy" means a
16 preparation of sugar, honey, or other natural or artificial
17 sweeteners in combination with chocolate, fruits, nuts or other
18 ingredients or flavorings in the form of bars, drops, or
19 pieces. "Candy" does not include any preparation that contains
20 flour or requires refrigeration.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "nonprescription medicines and
23 drugs" does not include grooming and hygiene products. For
24 purposes of this Section, "grooming and hygiene products"
25 includes, but is not limited to, soaps and cleaning solutions,
26 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan

1 lotions and screens, unless those products are available by
2 prescription only, regardless of whether the products meet the
3 definition of "over-the-counter-drugs". For the purposes of
4 this paragraph, "over-the-counter-drug" means a drug for human
5 use that contains a label that identifies the product as a drug
6 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
7 label includes:

8 (A) A "Drug Facts" panel; or

9 (B) A statement of the "active ingredient(s)" with a
10 list of those ingredients contained in the compound,
11 substance or preparation.

12 If the property that is acquired from a serviceman is
13 acquired outside Illinois and used outside Illinois before
14 being brought to Illinois for use here and is taxable under
15 this Act, the "selling price" on which the tax is computed
16 shall be reduced by an amount that represents a reasonable
17 allowance for depreciation for the period of prior out-of-state
18 use.

19 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
20 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
21 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

22 (35 ILCS 110/3-75)

23 Sec. 3-75. Sunset of exemptions, credits, and deductions.

24 (a) The application of every exemption, credit, and
25 deduction against tax imposed by this Act that becomes law

1 after the effective date of this amendatory Act of 1994 shall
2 be limited by a reasonable and appropriate sunset date. A
3 taxpayer is not entitled to take the exemption, credit, or
4 deduction beginning on the sunset date and thereafter. Except
5 as provided in subsection (b) of this Section, if ~~if~~ a
6 reasonable and appropriate sunset date is not specified in the
7 Public Act that creates the exemption, credit, or deduction, a
8 taxpayer shall not be entitled to take the exemption, credit,
9 or deduction beginning 5 years after the effective date of the
10 Public Act creating the exemption, credit, or deduction and
11 thereafter.

12 (b) Notwithstanding the provisions of subsection (a) of
13 this Section, the sunset date of any exemption, credit, or
14 deduction that is scheduled to expire in 2011, 2012, or 2013 by
15 operation of this Section shall be extended by 5 years.

16 (Source: P.A. 88-660, eff. 9-16-94; 89-235, eff. 8-4-95.)

17 Section 15-30. The Service Occupation Tax Act is amended by
18 changing Sections 3-5, 3-10, and 3-55 as follows:

19 (35 ILCS 115/3-5)

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

22 (1) Personal property sold by a corporation, society,
23 association, foundation, institution, or organization, other
24 than a limited liability company, that is organized and

1 operated as a not-for-profit service enterprise for the benefit
2 of persons 65 years of age or older if the personal property
3 was not purchased by the enterprise for the purpose of resale
4 by the enterprise.

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

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

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

1 (5) Until July 1, 2003 and beginning again on September 1,
2 2004 through August 30, 2014, graphic arts machinery and
3 equipment, including repair and replacement parts, both new and
4 used, and including that manufactured on special order or
5 purchased for lease, certified by the purchaser to be used
6 primarily for graphic arts production. Equipment includes
7 chemicals or chemicals acting as catalysts but only if the
8 chemicals or chemicals acting as catalysts effect a direct and
9 immediate change upon a graphic arts product.

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

13 (7) Farm machinery and equipment, both new and used,
14 including that manufactured on special order, certified by the
15 purchaser to be used primarily for production agriculture or
16 State or federal agricultural programs, including individual
17 replacement parts for the machinery and equipment, including
18 machinery and equipment purchased for lease, and including
19 implements of husbandry defined in Section 1-130 of the
20 Illinois Vehicle Code, farm machinery and agricultural
21 chemical and fertilizer spreaders, and nurse wagons required to
22 be registered under Section 3-809 of the Illinois Vehicle Code,
23 but excluding other motor vehicles required to be registered
24 under the Illinois Vehicle Code. Horticultural polyhouses or
25 hoop houses used for propagating, growing, or overwintering
26 plants shall be considered farm machinery and equipment under

1 this item (7). Agricultural chemical tender tanks and dry boxes
2 shall include units sold separately from a motor vehicle
3 required to be licensed and units sold mounted on a motor
4 vehicle required to be licensed if the selling price of the
5 tender is separately stated.

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

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

22 (8) Fuel and petroleum products sold to or used by an air
23 common carrier, certified by the carrier to be used for
24 consumption, shipment, or storage in the conduct of its
25 business as an air common carrier, for a flight destined for or
26 returning from a location or locations outside the United

1 States without regard to previous or subsequent domestic
2 stopovers.

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

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

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

25 (12) Until July 1, 2003, coal exploration, mining,
26 offhighway hauling, processing, maintenance, and reclamation

1 equipment, including replacement parts and equipment, and
2 including equipment purchased for lease, but excluding motor
3 vehicles required to be registered under the Illinois Vehicle
4 Code.

5 (13) Beginning January 1, 1992 and through June 30, 2016
6 ~~June 30, 2011~~, food for human consumption that is to be
7 consumed off the premises where it is sold (other than
8 alcoholic beverages, soft drinks and food that has been
9 prepared for immediate consumption) and prescription and
10 non-prescription medicines, drugs, medical appliances, and
11 insulin, urine testing materials, syringes, and needles used by
12 diabetics, for human use, when purchased for use by a person
13 receiving medical assistance under Article V of the Illinois
14 Public Aid Code who resides in a licensed long-term care
15 facility, as defined in the Nursing Home Care Act, or in a
16 licensed facility as defined in the ID/DD Community Care Act or
17 the Specialized Mental Health Rehabilitation Act.

18 (14) Semen used for artificial insemination of livestock
19 for direct agricultural production.

20 (15) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes. This item (15) is exempt from the provisions
26 of Section 3-55, and the exemption provided for under this item

1 (15) applies for all periods beginning May 30, 1995, but no
2 claim for credit or refund is allowed on or after January 1,
3 2008 (the effective date of Public Act 95-88) for such taxes
4 paid during the period beginning May 30, 2000 and ending on
5 January 1, 2008 (the effective date of Public Act 95-88).

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

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

20 (18) Beginning with taxable years ending on or after
21 December 31, 1995 and ending with taxable years ending on or
22 before December 31, 2004, personal property that is donated for
23 disaster relief to be used in a State or federally declared
24 disaster area in Illinois or bordering Illinois by a
25 manufacturer or retailer that is registered in this State to a
26 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 (19) 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 (20) Beginning July 1, 1999, game or game birds sold at a
17 "game breeding and hunting preserve area" as that term is used
18 in the Wildlife Code. This paragraph is exempt from the
19 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,

1 or institution organized and operated exclusively for
2 educational purposes" means all tax-supported public schools,
3 private schools that offer systematic instruction in useful
4 branches of learning by methods common to public schools and
5 that compare favorably in their scope and intensity with the
6 course of study presented in tax-supported schools, and
7 vocational or technical schools or institutes organized and
8 operated exclusively to provide a course of study of not less
9 than 6 weeks duration and designed to prepare individuals to
10 follow a trade or to pursue a manual, technical, mechanical,
11 industrial, business, or commercial occupation.

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

26 (23) Beginning January 1, 2000 and through December 31,

1 2001, new or used automatic vending machines that prepare and
2 serve hot food and beverages, including coffee, soup, and other
3 items, and replacement parts for these machines. Beginning
4 January 1, 2002 and through June 30, 2003, machines and parts
5 for machines used in commercial, coin-operated amusement and
6 vending business if a use or occupation tax is paid on the
7 gross receipts derived from the use of the commercial,
8 coin-operated amusement and vending machines. This paragraph
9 is exempt from the provisions of Section 3-55.

10 (24) Beginning on the effective date of this amendatory Act
11 of the 92nd General Assembly, computers and communications
12 equipment utilized for any hospital purpose and equipment used
13 in the diagnosis, analysis, or treatment of hospital patients
14 sold to a lessor who leases the equipment, under a lease of one
15 year or longer executed or in effect at the time of the
16 purchase, to a hospital that has been issued an active tax
17 exemption identification number by the Department under
18 Section 1g of the Retailers' Occupation Tax Act. This paragraph
19 is exempt from the provisions of Section 3-55.

20 (25) Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly, personal property sold to a
22 lessor who leases the property, under a lease of one year or
23 longer executed or in effect at the time of the purchase, to a
24 governmental body that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. This paragraph is exempt from

1 the provisions of Section 3-55.

2 (26) Beginning on January 1, 2002 and through June 30,
3 2016, tangible personal property purchased from an Illinois
4 retailer by a taxpayer engaged in centralized purchasing
5 activities in Illinois who will, upon receipt of the property
6 in Illinois, temporarily store the property in Illinois (i) for
7 the purpose of subsequently transporting it outside this State
8 for use or consumption thereafter solely outside this State or
9 (ii) for the purpose of being processed, fabricated, or
10 manufactured into, attached to, or incorporated into other
11 tangible personal property to be transported outside this State
12 and thereafter used or consumed solely outside this State. The
13 Director of Revenue shall, pursuant to rules adopted in
14 accordance with the Illinois Administrative Procedure Act,
15 issue a permit to any taxpayer in good standing with the
16 Department who is eligible for the exemption under this
17 paragraph (26). The permit issued under this paragraph (26)
18 shall authorize the holder, to the extent and in the manner
19 specified in the rules adopted under this Act, to purchase
20 tangible personal property from a retailer exempt from the
21 taxes imposed by this Act. Taxpayers shall maintain all
22 necessary books and records to substantiate the use and
23 consumption of all such tangible personal property outside of
24 the State of Illinois.

25 (27) Beginning January 1, 2008, tangible personal property
26 used in the construction or maintenance of a community water

1 supply, as defined under Section 3.145 of the Environmental
2 Protection Act, that is operated by a not-for-profit
3 corporation that holds a valid water supply permit issued under
4 Title IV of the Environmental Protection Act. This paragraph is
5 exempt from the provisions of Section 3-55.

6 (28) Tangible personal property sold to a
7 public-facilities corporation, as described in Section
8 11-65-10 of the Illinois Municipal Code, for purposes of
9 constructing or furnishing a municipal convention hall, but
10 only if the legal title to the municipal convention hall is
11 transferred to the municipality without any further
12 consideration by or on behalf of the municipality at the time
13 of the completion of the municipal convention hall or upon the
14 retirement or redemption of any bonds or other debt instruments
15 issued by the public-facilities corporation in connection with
16 the development of the municipal convention hall. This
17 exemption includes existing public-facilities corporations as
18 provided in Section 11-65-25 of the Illinois Municipal Code.
19 This paragraph is exempt from the provisions of Section 3-55.

20 (29) Beginning January 1, 2010, materials, parts,
21 equipment, components, and furnishings incorporated into or
22 upon an aircraft as part of the modification, refurbishment,
23 completion, replacement, repair, or maintenance of the
24 aircraft. This exemption includes consumable supplies used in
25 the modification, refurbishment, completion, replacement,
26 repair, and maintenance of aircraft, but excludes any

1 materials, parts, equipment, components, and consumable
2 supplies used in the modification, replacement, repair, and
3 maintenance of aircraft engines or power plants, whether such
4 engines or power plants are installed or uninstalled upon any
5 such aircraft. "Consumable supplies" include, but are not
6 limited to, adhesive, tape, sandpaper, general purpose
7 lubricants, cleaning solution, latex gloves, and protective
8 films. This exemption applies only to those organizations that
9 (i) hold an Air Agency Certificate and are empowered to operate
10 an approved repair station by the Federal Aviation
11 Administration, (ii) have a Class IV Rating, and (iii) conduct
12 operations in accordance with Part 145 of the Federal Aviation
13 Regulations. The exemption does not include aircraft operated
14 by a commercial air carrier providing scheduled passenger air
15 service pursuant to authority issued under Part 121 or Part 129
16 of the Federal Aviation Regulations.

17 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
18 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
19 7-2-10; 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227, eff.
20 1-1-12; 97-431, eff. 8-16-11; revised 9-12-11.)

21 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this
23 Section, the tax imposed by this Act is at the rate of 6.25% of
24 the "selling price", as defined in Section 2 of the Service Use
25 Tax Act, of the tangible personal property. For the purpose of

1 computing this tax, in no event shall the "selling price" be
2 less than the cost price to the serviceman of the tangible
3 personal property transferred. The selling price of each item
4 of tangible personal property transferred as an incident of a
5 sale of service may be shown as a distinct and separate item on
6 the serviceman's billing to the service customer. If the
7 selling price is not so shown, the selling price of the
8 tangible personal property is deemed to be 50% of the
9 serviceman's entire billing to the service customer. When,
10 however, a serviceman contracts to design, develop, and produce
11 special order machinery or equipment, the tax imposed by this
12 Act shall be based on the serviceman's cost price of the
13 tangible personal property transferred incident to the
14 completion of the contract.

15 Beginning on July 1, 2000 and through December 31, 2000,
16 with respect to motor fuel, as defined in Section 1.1 of the
17 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
18 the Use Tax Act, the tax is imposed at the rate of 1.25%.

19 With respect to gasohol, as defined in the Use Tax Act, the
20 tax imposed by this Act shall apply to (i) 70% of the cost
21 price of property transferred as an incident to the sale of
22 service on or after January 1, 1990, and before July 1, 2003,
23 (ii) 80% of the selling price of property transferred as an
24 incident to the sale of service on or after July 1, 2003 and on
25 or before December 31, 2018 ~~2013~~, and (iii) 100% of the cost
26 price thereafter. If, at any time, however, the tax under this

1 Act on sales of gasohol, as defined in the Use Tax Act, is
2 imposed at the rate of 1.25%, then the tax imposed by this Act
3 applies to 100% of the proceeds of sales of gasohol made during
4 that time.

5 With respect to majority blended ethanol fuel, as defined
6 in the Use Tax Act, the tax imposed by this Act does not apply
7 to the selling price of property transferred as an incident to
8 the sale of service on or after July 1, 2003 and on or before
9 December 31, 2018 ~~2013~~ but applies to 100% of the selling price
10 thereafter.

11 With respect to biodiesel blends, as defined in the Use Tax
12 Act, with no less than 1% and no more than 10% biodiesel, the
13 tax imposed by this Act applies to (i) 80% of the selling price
14 of property transferred as an incident to the sale of service
15 on or after July 1, 2003 and on or before December 31, 2018
16 ~~2013~~ and (ii) 100% of the proceeds of the selling price
17 thereafter. If, at any time, however, the tax under this Act on
18 sales of biodiesel blends, as defined in the Use Tax Act, with
19 no less than 1% and no more than 10% biodiesel is imposed at
20 the rate of 1.25%, then the tax imposed by this Act applies to
21 100% of the proceeds of sales of biodiesel blends with no less
22 than 1% and no more than 10% biodiesel made during that time.

23 With respect to 100% biodiesel, as defined in the Use Tax
24 Act, and biodiesel blends, as defined in the Use Tax Act, with
25 more than 10% but no more than 99% biodiesel material, the tax
26 imposed by this Act does not apply to the proceeds of the

1 selling price of property transferred as an incident to the
2 sale of service on or after July 1, 2003 and on or before
3 December 31, 2018 ~~2013~~ but applies to 100% of the selling price
4 thereafter.

5 At the election of any registered serviceman made for each
6 fiscal year, sales of service in which the aggregate annual
7 cost price of tangible personal property transferred as an
8 incident to the sales of service is less than 35%, or 75% in
9 the case of servicemen transferring prescription drugs or
10 servicemen engaged in graphic arts production, of the aggregate
11 annual total gross receipts from all sales of service, the tax
12 imposed by this Act shall be based on the serviceman's cost
13 price of the tangible personal property transferred incident to
14 the sale of those services.

15 The tax shall be imposed at the rate of 1% on food prepared
16 for immediate consumption and transferred incident to a sale of
17 service subject to this Act or the Service Occupation Tax Act
18 by an entity licensed under the Hospital Licensing Act, the
19 Nursing Home Care Act, the ID/DD Community Care Act, the
20 Specialized Mental Health Rehabilitation Act, or the Child Care
21 Act of 1969. The tax shall also be imposed at the rate of 1% on
22 food for human consumption that is to be consumed off the
23 premises where it is sold (other than alcoholic beverages, soft
24 drinks, and food that has been prepared for immediate
25 consumption and is not otherwise included in this paragraph)
26 and prescription and nonprescription medicines, drugs, medical

1 appliances, modifications to a motor vehicle for the purpose of
2 rendering it usable by a disabled person, and insulin, urine
3 testing materials, syringes, and needles used by diabetics, for
4 human use. For the purposes of this Section, until September 1,
5 2009: the term "soft drinks" means any complete, finished,
6 ready-to-use, non-alcoholic drink, whether carbonated or not,
7 including but not limited to soda water, cola, fruit juice,
8 vegetable juice, carbonated water, and all other preparations
9 commonly known as soft drinks of whatever kind or description
10 that are contained in any closed or sealed can, carton, or
11 container, regardless of size; but "soft drinks" does not
12 include coffee, tea, non-carbonated water, infant formula,
13 milk or milk products as defined in the Grade A Pasteurized
14 Milk and Milk Products Act, or drinks containing 50% or more
15 natural fruit or vegetable juice.

16 Notwithstanding any other provisions of this Act,
17 beginning September 1, 2009, "soft drinks" means non-alcoholic
18 beverages that contain natural or artificial sweeteners. "Soft
19 drinks" do not include beverages that contain milk or milk
20 products, soy, rice or similar milk substitutes, or greater
21 than 50% of vegetable or fruit juice by volume.

22 Until August 1, 2009, and notwithstanding any other
23 provisions of this Act, "food for human consumption that is to
24 be consumed off the premises where it is sold" includes all
25 food sold through a vending machine, except soft drinks and
26 food products that are dispensed hot from a vending machine,

1 regardless of the location of the vending machine. Beginning
2 August 1, 2009, and notwithstanding any other provisions of
3 this Act, "food for human consumption that is to be consumed
4 off the premises where it is sold" includes all food sold
5 through a vending machine, except soft drinks, candy, and food
6 products that are dispensed hot from a vending machine,
7 regardless of the location of the vending machine.

8 Notwithstanding any other provisions of this Act,
9 beginning September 1, 2009, "food for human consumption that
10 is to be consumed off the premises where it is sold" does not
11 include candy. For purposes of this Section, "candy" means a
12 preparation of sugar, honey, or other natural or artificial
13 sweeteners in combination with chocolate, fruits, nuts or other
14 ingredients or flavorings in the form of bars, drops, or
15 pieces. "Candy" does not include any preparation that contains
16 flour or requires refrigeration.

17 Notwithstanding any other provisions of this Act,
18 beginning September 1, 2009, "nonprescription medicines and
19 drugs" does not include grooming and hygiene products. For
20 purposes of this Section, "grooming and hygiene products"
21 includes, but is not limited to, soaps and cleaning solutions,
22 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
23 lotions and screens, unless those products are available by
24 prescription only, regardless of whether the products meet the
25 definition of "over-the-counter-drugs". For the purposes of
26 this paragraph, "over-the-counter-drug" means a drug for human

1 use that contains a label that identifies the product as a drug
2 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
3 label includes:

4 (A) A "Drug Facts" panel; or

5 (B) A statement of the "active ingredient(s)" with a
6 list of those ingredients contained in the compound,
7 substance or preparation.

8 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
9 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
10 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

11 (35 ILCS 115/3-55)

12 Sec. 3-55. Sunset of exemptions, credits, and deductions.

13 (a) The application of every exemption, credit, and
14 deduction against tax imposed by this Act that becomes law
15 after the effective date of this amendatory Act of 1994 shall
16 be limited by a reasonable and appropriate sunset date. A
17 taxpayer is not entitled to take the exemption, credit, or
18 deduction beginning on the sunset date and thereafter. Except
19 as provided in subsection (b) of this Section, if ~~if~~ a
20 reasonable and appropriate sunset date is not specified in the
21 Public Act that creates the exemption, credit, or deduction, a
22 taxpayer shall not be entitled to take the exemption, credit,
23 or deduction beginning 5 years after the effective date of the
24 Public Act creating the exemption, credit, or deduction and
25 thereafter.

1 (b) Notwithstanding the provisions of subsection (a) of
2 this Section, the sunset date of any exemption, credit, or
3 deduction that is scheduled to expire in 2011, 2012, or 2013 by
4 operation of this Section shall be extended by 5 years.

5 (Source: P.A. 88-660, eff. 9-16-94.)

6 Section 15-35. The Retailers' Occupation Tax Act is amended
7 by changing Sections 2-5, 2-10, and 2-70 as follows:

8 (35 ILCS 120/2-5)

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

12 (1) Farm chemicals.

13 (2) Farm machinery and equipment, both new and used,
14 including that manufactured on special order, certified by the
15 purchaser to be used primarily for production agriculture or
16 State or federal agricultural programs, including individual
17 replacement parts for the machinery and equipment, including
18 machinery and equipment purchased for lease, and including
19 implements of husbandry defined in Section 1-130 of the
20 Illinois Vehicle Code, farm machinery and agricultural
21 chemical and fertilizer spreaders, and nurse wagons required to
22 be registered under Section 3-809 of the Illinois Vehicle Code,
23 but excluding other motor vehicles required to be registered
24 under the Illinois Vehicle Code. Horticultural polyhouses or

1 hoop houses used for propagating, growing, or overwintering
2 plants shall be considered farm machinery and equipment under
3 this item (2). Agricultural chemical tender tanks and dry boxes
4 shall include units sold separately from a motor vehicle
5 required to be licensed and units sold mounted on a motor
6 vehicle required to be licensed, if the selling price of the
7 tender is separately stated.

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

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

24 (3) Until July 1, 2003, distillation machinery and
25 equipment, sold as a unit or kit, assembled or installed by the
26 retailer, certified by the user to be used only for the

1 production of ethyl alcohol that will be used for consumption
2 as motor fuel or as a component of motor fuel for the personal
3 use of the user, and not subject to sale or resale.

4 (4) Until July 1, 2003 and beginning again September 1,
5 2004 through August 30, 2014, graphic arts machinery and
6 equipment, including repair and replacement parts, both new and
7 used, and including that manufactured on special order or
8 purchased for lease, certified by the purchaser to be used
9 primarily for graphic arts production. Equipment includes
10 chemicals or chemicals acting as catalysts but only if the
11 chemicals or chemicals acting as catalysts effect a direct and
12 immediate change upon a graphic arts product.

13 (5) A motor vehicle of the first division, a motor vehicle
14 of the second division that is a self contained motor vehicle
15 designed or permanently converted to provide living quarters
16 for recreational, camping, or travel use, with direct walk
17 through access to the living quarters from the driver's seat,
18 or a motor vehicle of the second division that is of the van
19 configuration designed for the transportation of not less than
20 7 nor more than 16 passengers, as defined in Section 1-146 of
21 the Illinois Vehicle Code, that is used for automobile renting,
22 as defined in the Automobile Renting Occupation and Use Tax
23 Act. This paragraph is exempt from the provisions of Section
24 2-70.

25 (6) Personal property sold by a teacher-sponsored student
26 organization affiliated with an elementary or secondary school

1 located in Illinois.

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

5 (8) Personal property sold to an Illinois county fair
6 association for use in conducting, operating, or promoting the
7 county fair.

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

23 (10) Personal property sold by a corporation, society,
24 association, foundation, institution, or organization, other
25 than a limited liability company, that is organized and
26 operated as a not-for-profit service enterprise for the benefit

1 of persons 65 years of age or older if the personal property
2 was not purchased by the enterprise for the purpose of resale
3 by the enterprise.

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

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

1 (12-5) On and after July 1, 2003 and through June 30, 2004,
2 motor vehicles of the second division with a gross vehicle
3 weight in excess of 8,000 pounds that are subject to the
4 commercial distribution fee imposed under Section 3-815.1 of
5 the Illinois Vehicle Code. Beginning on July 1, 2004 and
6 through June 30, 2005, the use in this State of motor vehicles
7 of the second division: (i) with a gross vehicle weight rating
8 in excess of 8,000 pounds; (ii) that are subject to the
9 commercial distribution fee imposed under Section 3-815.1 of
10 the Illinois Vehicle Code; and (iii) that are primarily used
11 for commercial purposes. Through June 30, 2005, this exemption
12 applies to repair and replacement parts added after the initial
13 purchase of such a motor vehicle if that motor vehicle is used
14 in a manner that would qualify for the rolling stock exemption
15 otherwise provided for in this Act. For purposes of this
16 paragraph, "used for commercial purposes" means the
17 transportation of persons or property in furtherance of any
18 commercial or industrial enterprise whether for-hire or not.

19 (13) Proceeds from sales to owners, lessors, or shippers of
20 tangible personal property that is utilized by interstate
21 carriers for hire for use as rolling stock moving in interstate
22 commerce and equipment operated by a telecommunications
23 provider, licensed as a common carrier by the Federal
24 Communications Commission, which is permanently installed in
25 or affixed to aircraft moving in interstate commerce.

26 (14) Machinery and equipment that will be used by the

1 purchaser, or a lessee of the purchaser, primarily in the
2 process of manufacturing or assembling tangible personal
3 property for wholesale or retail sale or lease, whether the
4 sale or lease is made directly by the manufacturer or by some
5 other person, whether the materials used in the process are
6 owned by the manufacturer or some other person, or whether the
7 sale or lease is made apart from or as an incident to the
8 seller's engaging in the service occupation of producing
9 machines, tools, dies, jigs, patterns, gauges, or other similar
10 items of no commercial value on special order for a particular
11 purchaser.

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

19 (16) Petroleum products sold to a purchaser if the seller
20 is prohibited by federal law from charging tax to the
21 purchaser.

22 (17) Tangible personal property sold to a common carrier by
23 rail or motor that receives the physical possession of the
24 property in Illinois and that transports the property, or
25 shares with another common carrier in the transportation of the
26 property, out of Illinois on a standard uniform bill of lading

1 showing the seller of the property as the shipper or consignor
2 of the property to a destination outside Illinois, for use
3 outside Illinois.

4 (18) Legal tender, currency, medallions, or gold or silver
5 coinage issued by the State of Illinois, the government of the
6 United States of America, or the government of any foreign
7 country, and bullion.

8 (19) 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 (20) 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 (21) 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

1 Code.

2 (22) Fuel and petroleum products sold to or used by an air
3 carrier, certified by the carrier to be used for consumption,
4 shipment, or storage in the conduct of its business as an air
5 common carrier, for a flight destined for or returning from a
6 location or locations outside the United States without regard
7 to previous or subsequent domestic stopovers.

8 (23) A transaction in which the purchase order is received
9 by a florist who is located outside Illinois, but who has a
10 florist located in Illinois deliver the property to the
11 purchaser or the purchaser's donee in Illinois.

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

18 (25) Except as provided in item (25-5) of this Section, a
19 motor vehicle sold in this State to a nonresident even though
20 the motor vehicle is delivered to the nonresident in this
21 State, if the motor vehicle is not to be titled in this State,
22 and if a drive-away permit is issued to the motor vehicle as
23 provided in Section 3-603 of the Illinois Vehicle Code or if
24 the nonresident purchaser has vehicle registration plates to
25 transfer to the motor vehicle upon returning to his or her home
26 state. The issuance of the drive-away permit or having the

1 out-of-state registration plates to be transferred is prima
2 facie evidence that the motor vehicle will not be titled in
3 this State.

4 (25-5) The exemption under item (25) does not apply if the
5 state in which the motor vehicle will be titled does not allow
6 a reciprocal exemption for a motor vehicle sold and delivered
7 in that state to an Illinois resident but titled in Illinois.
8 The tax collected under this Act on the sale of a motor vehicle
9 in this State to a resident of another state that does not
10 allow a reciprocal exemption shall be imposed at a rate equal
11 to the state's rate of tax on taxable property in the state in
12 which the purchaser is a resident, except that the tax shall
13 not exceed the tax that would otherwise be imposed under this
14 Act. At the time of the sale, the purchaser shall execute a
15 statement, signed under penalty of perjury, of his or her
16 intent to title the vehicle in the state in which the purchaser
17 is a resident within 30 days after the sale and of the fact of
18 the payment to the State of Illinois of tax in an amount
19 equivalent to the state's rate of tax on taxable property in
20 his or her state of residence and shall submit the statement to
21 the appropriate tax collection agency in his or her state of
22 residence. In addition, the retailer must retain a signed copy
23 of the statement in his or her records. Nothing in this item
24 shall be construed to require the removal of the vehicle from
25 this state following the filing of an intent to title the
26 vehicle in the purchaser's state of residence if the purchaser

1 titles the vehicle in his or her state of residence within 30
2 days after the date of sale. The tax collected under this Act
3 in accordance with this item (25-5) shall be proportionately
4 distributed as if the tax were collected at the 6.25% general
5 rate imposed under this Act.

6 (25-7) Beginning on July 1, 2007, no tax is imposed under
7 this Act on the sale of an aircraft, as defined in Section 3 of
8 the Illinois Aeronautics Act, if all of the following
9 conditions are met:

10 (1) the aircraft leaves this State within 15 days after
11 the later of either the issuance of the final billing for
12 the sale of the aircraft, or the authorized approval for
13 return to service, completion of the maintenance record
14 entry, and completion of the test flight and ground test
15 for inspection, as required by 14 C.F.R. 91.407;

16 (2) the aircraft is not based or registered in this
17 State after the sale of the aircraft; and

18 (3) the seller retains in his or her books and records
19 and provides to the Department a signed and dated
20 certification from the purchaser, on a form prescribed by
21 the Department, certifying that the requirements of this
22 item (25-7) are met. The certificate must also include the
23 name and address of the purchaser, the address of the
24 location where the aircraft is to be titled or registered,
25 the address of the primary physical location of the
26 aircraft, and other information that the Department may

1 reasonably require.

2 For purposes of this item (25-7):

3 "Based in this State" means hangared, stored, or otherwise
4 used, excluding post-sale customizations as defined in this
5 Section, for 10 or more days in each 12-month period
6 immediately following the date of the sale of the aircraft.

7 "Registered in this State" means an aircraft registered
8 with the Department of Transportation, Aeronautics Division,
9 or titled or registered with the Federal Aviation
10 Administration to an address located in this State.

11 This paragraph (25-7) is exempt from the provisions of
12 Section 2-70.

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

15 (27) Horses, or interests in horses, registered with and
16 meeting the requirements of any of the Arabian Horse Club
17 Registry of America, Appaloosa Horse Club, American Quarter
18 Horse Association, United States Trotting Association, or
19 Jockey Club, as appropriate, used for purposes of breeding or
20 racing for prizes. This item (27) is exempt from the provisions
21 of Section 2-70, and the exemption provided for under this item
22 (27) applies for all periods beginning May 30, 1995, but no
23 claim for credit or refund is allowed on or after January 1,
24 2008 (the effective date of Public Act 95-88) for such taxes
25 paid during the period beginning May 30, 2000 and ending on
26 January 1, 2008 (the effective date of Public Act 95-88).

1 (28) Computers and communications equipment utilized for
2 any hospital purpose and equipment used in the diagnosis,
3 analysis, or treatment of hospital patients sold to a lessor
4 who leases the equipment, under a lease of one year or longer
5 executed or in effect at the time of the purchase, to a
6 hospital that has been issued an active tax exemption
7 identification number by the Department under Section 1g of
8 this Act.

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

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

24 (31) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is used in the

1 performance of infrastructure repairs in this State, including
2 but not limited to municipal roads and streets, access roads,
3 bridges, sidewalks, waste disposal systems, water and sewer
4 line extensions, water distribution and purification
5 facilities, storm water drainage and retention facilities, and
6 sewage treatment facilities, resulting from a State or
7 federally declared disaster in Illinois or bordering Illinois
8 when such repairs are initiated on facilities located in the
9 declared disaster area within 6 months after the disaster.

10 (32) Beginning July 1, 1999, game or game birds sold at a
11 "game breeding and hunting preserve area" as that term is used
12 in the Wildlife Code. This paragraph is exempt from the
13 provisions of Section 2-70.

14 (33) A motor vehicle, as that term is defined in Section
15 1-146 of the Illinois Vehicle Code, that is donated to a
16 corporation, limited liability company, society, association,
17 foundation, or institution that is determined by the Department
18 to be organized and operated exclusively for educational
19 purposes. For purposes of this exemption, "a corporation,
20 limited liability company, society, association, foundation,
21 or institution organized and operated exclusively for
22 educational purposes" means all tax-supported public schools,
23 private schools that offer systematic instruction in useful
24 branches of learning by methods common to public schools and
25 that compare favorably in their scope and intensity with the
26 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 (34) 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 2-70.

20 (35) 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

1 gross receipts derived from the use of the commercial,
2 coin-operated amusement and vending machines. This paragraph
3 is exempt from the provisions of Section 2-70.

4 (35-5) Beginning August 23, 2001 and through June 30, 2016
5 ~~June 30, 2011~~, food for human consumption that is to be
6 consumed off the premises where it is sold (other than
7 alcoholic beverages, soft drinks, and food that has been
8 prepared for immediate consumption) and prescription and
9 nonprescription medicines, drugs, medical appliances, and
10 insulin, urine testing materials, syringes, and needles used by
11 diabetics, for human use, when purchased for use by a person
12 receiving medical assistance under Article V of the Illinois
13 Public Aid Code who resides in a licensed long-term care
14 facility, as defined in the Nursing Home Care Act, or a
15 licensed facility as defined in the ID/DD Community Care Act or
16 the Specialized Mental Health Rehabilitation Act.

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

26 (37) Beginning August 2, 2001, personal property sold to a

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

7 (38) Beginning on January 1, 2002 and through June 30,
8 2016, tangible personal property purchased from an Illinois
9 retailer by a taxpayer engaged in centralized purchasing
10 activities in Illinois who will, upon receipt of the property
11 in Illinois, temporarily store the property in Illinois (i) for
12 the purpose of subsequently transporting it outside this State
13 for use or consumption thereafter solely outside this State or
14 (ii) for the purpose of being processed, fabricated, or
15 manufactured into, attached to, or incorporated into other
16 tangible personal property to be transported outside this State
17 and thereafter used or consumed solely outside this State. The
18 Director of Revenue shall, pursuant to rules adopted in
19 accordance with the Illinois Administrative Procedure Act,
20 issue a permit to any taxpayer in good standing with the
21 Department who is eligible for the exemption under this
22 paragraph (38). The permit issued under this paragraph (38)
23 shall authorize the holder, to the extent and in the manner
24 specified in the rules adopted under this Act, to purchase
25 tangible personal property from a retailer exempt from the
26 taxes imposed by this Act. Taxpayers shall maintain all

1 necessary books and records to substantiate the use and
2 consumption of all such tangible personal property outside of
3 the State of Illinois.

4 (39) Beginning January 1, 2008, tangible personal property
5 used in the construction or maintenance of a community water
6 supply, as defined under Section 3.145 of the Environmental
7 Protection Act, that is operated by a not-for-profit
8 corporation that holds a valid water supply permit issued under
9 Title IV of the Environmental Protection Act. This paragraph is
10 exempt from the provisions of Section 2-70.

11 (40) Beginning January 1, 2010, materials, parts,
12 equipment, components, and furnishings incorporated into or
13 upon an aircraft as part of the modification, refurbishment,
14 completion, replacement, repair, or maintenance of the
15 aircraft. This exemption includes consumable supplies used in
16 the modification, refurbishment, completion, replacement,
17 repair, and maintenance of aircraft, but excludes any
18 materials, parts, equipment, components, and consumable
19 supplies used in the modification, replacement, repair, and
20 maintenance of aircraft engines or power plants, whether such
21 engines or power plants are installed or uninstalled upon any
22 such aircraft. "Consumable supplies" include, but are not
23 limited to, adhesive, tape, sandpaper, general purpose
24 lubricants, cleaning solution, latex gloves, and protective
25 films. This exemption applies only to those organizations that
26 (i) hold an Air Agency Certificate and are empowered to operate

1 an approved repair station by the Federal Aviation
2 Administration, (ii) have a Class IV Rating, and (iii) conduct
3 operations in accordance with Part 145 of the Federal Aviation
4 Regulations. The exemption does not include aircraft operated
5 by a commercial air carrier providing scheduled passenger air
6 service pursuant to authority issued under Part 121 or Part 129
7 of the Federal Aviation Regulations.

8 (41) Tangible personal property sold to a
9 public-facilities corporation, as described in Section
10 11-65-10 of the Illinois Municipal Code, for purposes of
11 constructing or furnishing a municipal convention hall, but
12 only if the legal title to the municipal convention hall is
13 transferred to the municipality without any further
14 consideration by or on behalf of the municipality at the time
15 of the completion of the municipal convention hall or upon the
16 retirement or redemption of any bonds or other debt instruments
17 issued by the public-facilities corporation in connection with
18 the development of the municipal convention hall. This
19 exemption includes existing public-facilities corporations as
20 provided in Section 11-65-25 of the Illinois Municipal Code.
21 This paragraph is exempt from the provisions of Section 2-70.

22 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
23 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
24 7-2-10; 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227, eff.
25 1-1-12; 97-431, eff. 8-16-11; revised 9-12-11.)

1 (35 ILCS 120/2-10)

2 Sec. 2-10. Rate of tax. Unless otherwise provided in this
3 Section, the tax imposed by this Act is at the rate of 6.25% of
4 gross receipts from sales of tangible personal property made in
5 the course of business.

6 Beginning on July 1, 2000 and through December 31, 2000,
7 with respect to motor fuel, as defined in Section 1.1 of the
8 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
9 the Use Tax Act, the tax is imposed at the rate of 1.25%.

10 Beginning on August 6, 2010 through August 15, 2010, with
11 respect to sales tax holiday items as defined in Section 2-8 of
12 this Act, the tax is imposed at the rate of 1.25%.

13 Within 14 days after the effective date of this amendatory
14 Act of the 91st General Assembly, each retailer of motor fuel
15 and gasohol shall cause the following notice to be posted in a
16 prominently visible place on each retail dispensing device that
17 is used to dispense motor fuel or gasohol in the State of
18 Illinois: "As of July 1, 2000, the State of Illinois has
19 eliminated the State's share of sales tax on motor fuel and
20 gasohol through December 31, 2000. The price on this pump
21 should reflect the elimination of the tax." The notice shall be
22 printed in bold print on a sign that is no smaller than 4
23 inches by 8 inches. The sign shall be clearly visible to
24 customers. Any retailer who fails to post or maintain a
25 required sign through December 31, 2000 is guilty of a petty
26 offense for which the fine shall be \$500 per day per each

1 retail premises where a violation occurs.

2 With respect to gasohol, as defined in the Use Tax Act, the
3 tax imposed by this Act applies to (i) 70% of the proceeds of
4 sales made on or after January 1, 1990, and before July 1,
5 2003, (ii) 80% of the proceeds of sales made on or after July
6 1, 2003 and on or before December 31, 2018 ~~2013~~, and (iii) 100%
7 of the proceeds of sales made thereafter. If, at any time,
8 however, the tax under this Act on sales of gasohol, as defined
9 in the Use Tax Act, is imposed at the rate of 1.25%, then the
10 tax imposed by this Act applies to 100% of the proceeds of
11 sales of gasohol made during that time.

12 With respect to majority blended ethanol fuel, as defined
13 in the Use Tax Act, the tax imposed by this Act does not apply
14 to the proceeds of sales made on or after July 1, 2003 and on or
15 before December 31, 2018 ~~2013~~ but applies to 100% of the
16 proceeds of sales made thereafter.

17 With respect to biodiesel blends, as defined in the Use Tax
18 Act, with no less than 1% and no more than 10% biodiesel, the
19 tax imposed by this Act applies to (i) 80% of the proceeds of
20 sales made on or after July 1, 2003 and on or before December
21 31, 2018 ~~2013~~ and (ii) 100% of the proceeds of sales made
22 thereafter. If, at any time, however, the tax under this Act on
23 sales of biodiesel blends, as defined in the Use Tax Act, with
24 no less than 1% and no more than 10% biodiesel is imposed at
25 the rate of 1.25%, then the tax imposed by this Act applies to
26 100% of the proceeds of sales of biodiesel blends with no less

1 than 1% and no more than 10% biodiesel made during that time.

2 With respect to 100% biodiesel, as defined in the Use Tax
3 Act, and biodiesel blends, as defined in the Use Tax Act, with
4 more than 10% but no more than 99% biodiesel, the tax imposed
5 by this Act does not apply to the proceeds of sales made on or
6 after July 1, 2003 and on or before December 31, 2018 ~~2013~~ but
7 applies to 100% of the proceeds of sales made thereafter.

8 With respect to food for human consumption that is to be
9 consumed off the premises where it is sold (other than
10 alcoholic beverages, soft drinks, and food that has been
11 prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances,
13 modifications to a motor vehicle for the purpose of rendering
14 it usable by a disabled person, and insulin, urine testing
15 materials, syringes, and needles used by diabetics, for human
16 use, the tax is imposed at the rate of 1%. For the purposes of
17 this Section, until September 1, 2009: the term "soft drinks"
18 means any complete, finished, ready-to-use, non-alcoholic
19 drink, whether carbonated or not, including but not limited to
20 soda water, cola, fruit juice, vegetable juice, carbonated
21 water, and all other preparations commonly known as soft drinks
22 of whatever kind or description that are contained in any
23 closed or sealed bottle, can, carton, or container, regardless
24 of size; but "soft drinks" does not include coffee, tea,
25 non-carbonated water, infant formula, milk or milk products as
26 defined in the Grade A Pasteurized Milk and Milk Products Act,

1 or drinks containing 50% or more natural fruit or vegetable
2 juice.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "soft drinks" means non-alcoholic
5 beverages that contain natural or artificial sweeteners. "Soft
6 drinks" do not include beverages that contain milk or milk
7 products, soy, rice or similar milk substitutes, or greater
8 than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other
10 provisions of this Act, "food for human consumption that is to
11 be consumed off the premises where it is sold" includes all
12 food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine. Beginning
15 August 1, 2009, and notwithstanding any other provisions of
16 this Act, "food for human consumption that is to be consumed
17 off the premises where it is sold" includes all food sold
18 through a vending machine, except soft drinks, candy, and food
19 products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "food for human consumption that
23 is to be consumed off the premises where it is sold" does not
24 include candy. For purposes of this Section, "candy" means a
25 preparation of sugar, honey, or other natural or artificial
26 sweeteners in combination with chocolate, fruits, nuts or other

1 ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "nonprescription medicines and
6 drugs" does not include grooming and hygiene products. For
7 purposes of this Section, "grooming and hygiene products"
8 includes, but is not limited to, soaps and cleaning solutions,
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
10 lotions and screens, unless those products are available by
11 prescription only, regardless of whether the products meet the
12 definition of "over-the-counter-drugs". For the purposes of
13 this paragraph, "over-the-counter-drug" means a drug for human
14 use that contains a label that identifies the product as a drug
15 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
16 label includes:

17 (A) A "Drug Facts" panel; or

18 (B) A statement of the "active ingredient(s)" with a
19 list of those ingredients contained in the compound,
20 substance or preparation.

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
22 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

23 (35 ILCS 120/2-70)

24 Sec. 2-70. Sunset of exemptions, credits, and deductions.

25 (a) The application of every exemption, credit, and

1 deduction against tax imposed by this Act that becomes law
2 after the effective date of this amendatory Act of 1994 shall
3 be limited by a reasonable and appropriate sunset date. A
4 taxpayer is not entitled to take the exemption, credit, or
5 deduction beginning on the sunset date and thereafter. Except
6 as provided in subsection (b) of this Section, if ~~if~~ a
7 reasonable and appropriate sunset date is not specified in the
8 Public Act that creates the exemption, credit, or deduction, a
9 taxpayer shall not be entitled to take the exemption, credit,
10 or deduction beginning 5 years after the effective date of the
11 Public Act creating the exemption, credit, or deduction and
12 thereafter.

13 (b) Notwithstanding the provisions of subsection (a) of
14 this Section, the sunset date of any exemption, credit, or
15 deduction that is scheduled to expire in 2011, 2012, or 2013 by
16 operation of this Section shall be extended by 5 years.

17 (Source: P.A. 88-660, eff. 9-16-94.)

18 Section 15-37. The Property Tax Code is amended by changing
19 Section 18-165 as follows:

20 (35 ILCS 200/18-165)

21 Sec. 18-165. Abatement of taxes.

22 (a) Any taxing district, upon a majority vote of its
23 governing authority, may, after the determination of the
24 assessed valuation of its property, order the clerk of that

1 county to abate any portion of its taxes on the following types
2 of property:

3 (1) Commercial and industrial.

4 (A) The property of any commercial or industrial
5 firm, including but not limited to the property of (i)
6 any firm that is used for collecting, separating,
7 storing, or processing recyclable materials, locating
8 within the taxing district during the immediately
9 preceding year from another state, territory, or
10 country, or having been newly created within this State
11 during the immediately preceding year, or expanding an
12 existing facility, or (ii) any firm that is used for
13 the generation and transmission of electricity
14 locating within the taxing district during the
15 immediately preceding year or expanding its presence
16 within the taxing district during the immediately
17 preceding year by construction of a new electric
18 generating facility that uses natural gas as its fuel,
19 or any firm that is used for production operations at a
20 new, expanded, or reopened coal mine within the taxing
21 district, that has been certified as a High Impact
22 Business by the Illinois Department of Commerce and
23 Economic Opportunity. The property of any firm used for
24 the generation and transmission of electricity shall
25 include all property of the firm used for transmission
26 facilities as defined in Section 5.5 of the Illinois

1 Enterprise Zone Act. The abatement shall not exceed a
2 period of 10 years and the aggregate amount of abated
3 taxes for all taxing districts combined shall not
4 exceed \$4,000,000.

5 (A-5) Any property in the taxing district of a new
6 electric generating facility, as defined in Section
7 605-332 of the Department of Commerce and Economic
8 Opportunity Law of the Civil Administrative Code of
9 Illinois. The abatement shall not exceed a period of 10
10 years. The abatement shall be subject to the following
11 limitations:

12 (i) if the equalized assessed valuation of the
13 new electric generating facility is equal to or
14 greater than \$25,000,000 but less than
15 \$50,000,000, then the abatement may not exceed (i)
16 over the entire term of the abatement, 5% of the
17 taxing district's aggregate taxes from the new
18 electric generating facility and (ii) in any one
19 year of abatement, 20% of the taxing district's
20 taxes from the new electric generating facility;

21 (ii) if the equalized assessed valuation of
22 the new electric generating facility is equal to or
23 greater than \$50,000,000 but less than
24 \$75,000,000, then the abatement may not exceed (i)
25 over the entire term of the abatement, 10% of the
26 taxing district's aggregate taxes from the new

1 electric generating facility and (ii) in any one
2 year of abatement, 35% of the taxing district's
3 taxes from the new electric generating facility;

4 (iii) if the equalized assessed valuation of
5 the new electric generating facility is equal to or
6 greater than \$75,000,000 but less than
7 \$100,000,000, then the abatement may not exceed
8 (i) over the entire term of the abatement, 20% of
9 the taxing district's aggregate taxes from the new
10 electric generating facility and (ii) in any one
11 year of abatement, 50% of the taxing district's
12 taxes from the new electric generating facility;

13 (iv) if the equalized assessed valuation of
14 the new electric generating facility is equal to or
15 greater than \$100,000,000 but less than
16 \$125,000,000, then the abatement may not exceed
17 (i) over the entire term of the abatement, 30% of
18 the taxing district's aggregate taxes from the new
19 electric generating facility and (ii) in any one
20 year of abatement, 60% of the taxing district's
21 taxes from the new electric generating facility;

22 (v) if the equalized assessed valuation of the
23 new electric generating facility is equal to or
24 greater than \$125,000,000 but less than
25 \$150,000,000, then the abatement may not exceed
26 (i) over the entire term of the abatement, 40% of

1 the taxing district's aggregate taxes from the new
2 electric generating facility and (ii) in any one
3 year of abatement, 60% of the taxing district's
4 taxes from the new electric generating facility;

5 (vi) if the equalized assessed valuation of
6 the new electric generating facility is equal to or
7 greater than \$150,000,000, then the abatement may
8 not exceed (i) over the entire term of the
9 abatement, 50% of the taxing district's aggregate
10 taxes from the new electric generating facility
11 and (ii) in any one year of abatement, 60% of the
12 taxing district's taxes from the new electric
13 generating facility.

14 The abatement is not effective unless the owner of
15 the new electric generating facility agrees to repay to
16 the taxing district all amounts previously abated,
17 together with interest computed at the rate and in the
18 manner provided for delinquent taxes, in the event that
19 the owner of the new electric generating facility
20 closes the new electric generating facility before the
21 expiration of the entire term of the abatement.

22 The authorization of taxing districts to abate
23 taxes under this subdivision (a) (1) (A-5) expires on
24 January 1, 2010.

25 (B) The property of any commercial or industrial
26 development of at least 500 acres having been created

1 within the taxing district. The abatement shall not
2 exceed a period of 20 years and the aggregate amount of
3 abated taxes for all taxing districts combined shall
4 not exceed \$12,000,000.

5 (C) The property of any commercial or industrial
6 firm currently located in the taxing district that
7 expands a facility or its number of employees. The
8 abatement shall not exceed a period of 10 years and the
9 aggregate amount of abated taxes for all taxing
10 districts combined shall not exceed \$4,000,000. The
11 abatement period may be renewed at the option of the
12 taxing districts.

13 (2) Horse racing. Any property in the taxing district
14 which is used for the racing of horses and upon which
15 capital improvements consisting of expansion, improvement
16 or replacement of existing facilities have been made since
17 July 1, 1987. The combined abatements for such property
18 from all taxing districts in any county shall not exceed
19 \$5,000,000 annually and shall not exceed a period of 10
20 years.

21 (3) Auto racing. Any property designed exclusively for
22 the racing of motor vehicles. Such abatement shall not
23 exceed a period of 10 years.

24 (4) Academic or research institute. The property of any
25 academic or research institute in the taxing district that
26 (i) is an exempt organization under paragraph (3) of

1 Section 501(c) of the Internal Revenue Code, (ii) operates
2 for the benefit of the public by actually and exclusively
3 performing scientific research and making the results of
4 the research available to the interested public on a
5 non-discriminatory basis, and (iii) employs more than 100
6 employees. An abatement granted under this paragraph shall
7 be for at least 15 years and the aggregate amount of abated
8 taxes for all taxing districts combined shall not exceed
9 \$5,000,000.

10 (5) Housing for older persons. Any property in the
11 taxing district that is devoted exclusively to affordable
12 housing for older households. For purposes of this
13 paragraph, "older households" means those households (i)
14 living in housing provided under any State or federal
15 program that the Department of Human Rights determines is
16 specifically designed and operated to assist elderly
17 persons and is solely occupied by persons 55 years of age
18 or older and (ii) whose annual income does not exceed 80%
19 of the area gross median income, adjusted for family size,
20 as such gross income and median income are determined from
21 time to time by the United States Department of Housing and
22 Urban Development. The abatement shall not exceed a period
23 of 15 years, and the aggregate amount of abated taxes for
24 all taxing districts shall not exceed \$3,000,000.

25 (6) Historical society. For assessment years 1998
26 through 2018 ~~2013~~, the property of an historical society

1 qualifying as an exempt organization under Section
2 501(c)(3) of the federal Internal Revenue Code.

3 (7) Recreational facilities. Any property in the
4 taxing district (i) that is used for a municipal airport,
5 (ii) that is subject to a leasehold assessment under
6 Section 9-195 of this Code and (iii) which is sublet from a
7 park district that is leasing the property from a
8 municipality, but only if the property is used exclusively
9 for recreational facilities or for parking lots used
10 exclusively for those facilities. The abatement shall not
11 exceed a period of 10 years.

12 (8) Relocated corporate headquarters. If approval
13 occurs within 5 years after the effective date of this
14 amendatory Act of the 92nd General Assembly, any property
15 or a portion of any property in a taxing district that is
16 used by an eligible business for a corporate headquarters
17 as defined in the Corporate Headquarters Relocation Act.
18 Instead of an abatement under this paragraph (8), a taxing
19 district may enter into an agreement with an eligible
20 business to make annual payments to that eligible business
21 in an amount not to exceed the property taxes paid directly
22 or indirectly by that eligible business to the taxing
23 district and any other taxing districts for premises
24 occupied pursuant to a written lease and may make those
25 payments without the need for an annual appropriation. No
26 school district, however, may enter into an agreement with,

1 or abate taxes for, an eligible business unless the
2 municipality in which the corporate headquarters is
3 located agrees to provide funding to the school district in
4 an amount equal to the amount abated or paid by the school
5 district as provided in this paragraph (8). Any abatement
6 ordered or agreement entered into under this paragraph (8)
7 may be effective for the entire term specified by the
8 taxing district, except the term of the abatement or annual
9 payments may not exceed 20 years.

10 (9) United States Military Public/Private Residential
11 Developments. Each building, structure, or other
12 improvement designed, financed, constructed, renovated,
13 managed, operated, or maintained after January 1, 2006
14 under a "PPV Lease", as set forth under Division 14 of
15 Article 10, and any such PPV Lease.

16 (10) Property located in a business corridor that
17 qualifies for an abatement under Section 18-184.10.

18 (b) Upon a majority vote of its governing authority, any
19 municipality may, after the determination of the assessed
20 valuation of its property, order the county clerk to abate any
21 portion of its taxes on any property that is located within the
22 corporate limits of the municipality in accordance with Section
23 8-3-18 of the Illinois Municipal Code.

24 (Source: P.A. 96-1136, eff. 7-21-10; 97-577, eff. 1-1-12.)

25 Section 15-40. The Illinois Estate and Generation-Skipping

1 Transfer Tax Act is amended by changing Section 2 as follows:

2 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

3 Sec. 2. Definitions.

4 "Federal estate tax" means the tax due to the United States
5 with respect to a taxable transfer under Chapter 11 of the
6 Internal Revenue Code.

7 "Federal generation-skipping transfer tax" means the tax
8 due to the United States with respect to a taxable transfer
9 under Chapter 13 of the Internal Revenue Code.

10 "Federal return" means the federal estate tax return with
11 respect to the federal estate tax and means the federal
12 generation-skipping transfer tax return with respect to the
13 federal generation-skipping transfer tax.

14 "Federal transfer tax" means the federal estate tax or the
15 federal generation-skipping transfer tax.

16 "Illinois estate tax" means the tax due to this State with
17 respect to a taxable transfer.

18 "Illinois generation-skipping transfer tax" means the tax
19 due to this State with respect to a taxable transfer that gives
20 rise to a federal generation-skipping transfer tax.

21 "Illinois transfer tax" means the Illinois estate tax or
22 the Illinois generation-skipping transfer tax.

23 "Internal Revenue Code" means, unless otherwise provided,
24 the Internal Revenue Code of 1986, as amended from time to
25 time.

1 "Non-resident trust" means a trust that is not a resident
2 of this State for purposes of the Illinois Income Tax Act, as
3 amended from time to time.

4 "Person" means and includes any individual, trust, estate,
5 partnership, association, company or corporation.

6 "Qualified heir" means a qualified heir as defined in
7 Section 2032A(e) (1) of the Internal Revenue Code.

8 "Resident trust" means a trust that is a resident of this
9 State for purposes of the Illinois Income Tax Act, as amended
10 from time to time.

11 "State" means any state, territory or possession of the
12 United States and the District of Columbia.

13 "State tax credit" means:

14 (a) For persons dying on or after January 1, 2003 and
15 through December 31, 2005, an amount equal to the full credit
16 calculable under Section 2011 or Section 2604 of the Internal
17 Revenue Code as the credit would have been computed and allowed
18 under the Internal Revenue Code as in effect on December 31,
19 2001, without the reduction in the State Death Tax Credit as
20 provided in Section 2011(b) (2) or the termination of the State
21 Death Tax Credit as provided in Section 2011(f) as enacted by
22 the Economic Growth and Tax Relief Reconciliation Act of 2001,
23 but recognizing the increased applicable exclusion amount
24 through December 31, 2005.

25 (b) For persons dying after December 31, 2005 and on or
26 before December 31, 2009, and for persons dying after December

1 31, 2010, an amount equal to the full credit calculable under
2 Section 2011 or 2604 of the Internal Revenue Code as the credit
3 would have been computed and allowed under the Internal Revenue
4 Code as in effect on December 31, 2001, without the reduction
5 in the State Death Tax Credit as provided in Section 2011(b)(2)
6 or the termination of the State Death Tax Credit as provided in
7 Section 2011(f) as enacted by the Economic Growth and Tax
8 Relief Reconciliation Act of 2001, but recognizing the
9 exclusion amount of only (i) \$2,000,000 for persons dying prior
10 to January 1, 2012, (ii) \$3,500,000 for persons dying on or
11 after January 1, 2012 and prior to January 1, 2013, and (iii)
12 \$4,000,000 for persons dying on or after January 1, 2013, and
13 with reduction to the adjusted taxable estate for any qualified
14 terminable interest property election as defined in subsection
15 (b-1) of this Section.

16 (b-1) The person required to file the Illinois return may
17 elect on a timely filed Illinois return a marital deduction for
18 qualified terminable interest property under Section
19 2056(b)(7) of the Internal Revenue Code for purposes of the
20 Illinois estate tax that is separate and independent of any
21 qualified terminable interest property election for federal
22 estate tax purposes. For purposes of the Illinois estate tax,
23 the inclusion of property in the gross estate of a surviving
24 spouse is the same as under Section 2044 of the Internal
25 Revenue Code.

26 In the case of any trust for which a State or federal

1 qualified terminable interest property election is made, the
2 trustee may not retain non-income producing assets for more
3 than a reasonable amount of time without the consent of the
4 surviving spouse.

5 "Taxable transfer" means an event that gives rise to a
6 state tax credit, including any credit as a result of the
7 imposition of an additional tax under Section 2032A(c) of the
8 Internal Revenue Code.

9 "Transferee" means a transferee within the meaning of
10 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
11 Code.

12 "Transferred property" means:

13 (1) With respect to a taxable transfer occurring at the
14 death of an individual, the deceased individual's gross
15 estate as defined in Section 2031 of the Internal Revenue
16 Code.

17 (2) With respect to a taxable transfer occurring as a
18 result of a taxable termination as defined in Section
19 2612(a) of the Internal Revenue Code, the taxable amount
20 determined under Section 2622(a) of the Internal Revenue
21 Code.

22 (3) With respect to a taxable transfer occurring as a
23 result of a taxable distribution as defined in Section
24 2612(b) of the Internal Revenue Code, the taxable amount
25 determined under Section 2621(a) of the Internal Revenue
26 Code.

1 (4) With respect to an event which causes the
2 imposition of an additional estate tax under Section
3 2032A(c) of the Internal Revenue Code, the qualified real
4 property that was disposed of or which ceased to be used
5 for the qualified use, within the meaning of Section
6 2032A(c) (1) of the Internal Revenue Code.

7 "Trust" includes a trust as defined in Section 2652(b) (1)
8 of the Internal Revenue Code.

9 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11.)".