



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3590

by Rep. Sam Yingling

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/303	from Ch. 120, par. 3-303
35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/710	from Ch. 120, par. 7-710

Amends the Illinois Income Tax Act. Provides that winnings from pari-mutuel wagering conducted at a wagering facility licensed under the Illinois Horse Racing Act of 1975 or from winnings from gambling games conducted on a riverboat licensed under the Riverboat Gambling Act are taxable as income in this State, for both residents and nonresidents. Provides that such winners must withhold Illinois income tax from their winnings, if the payment of winnings must be reported to the Internal Revenue Service by the person making the payment. Effective immediately.

LRB101 10559 HLH 55665 b

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Sections 303, 304, and 710 as follows:

6 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

7 Sec. 303. (a) In general. Any item of capital gain or loss,  
8 ~~and~~ any item of income from rents or royalties from real or  
9 tangible personal property, interest, dividends, ~~and~~ patent or  
10 copyright royalties, and prizes awarded under the Illinois  
11 Lottery Law, and, for taxable years ending on or after December  
12 31, 2018, wagering and gambling winnings from Illinois sources  
13 as set forth in subsection (e), to the extent such item  
14 constitutes nonbusiness income, together with any item of  
15 deduction directly allocable thereto, shall be allocated by any  
16 person other than a resident as provided in this Section.

17 (b) Capital gains and losses.

18 (1) Real property. Capital gains and losses from sales  
19 or exchanges of real property are allocable to this State  
20 if the property is located in this State.

21 (2) Tangible personal property. Capital gains and  
22 losses from sales or exchanges of tangible personal  
23 property are allocable to this State if, at the time of

1 such sale or exchange:

2 (A) The property had its situs in this State; or

3 (B) The taxpayer had its commercial domicile in  
4 this State and was not taxable in the state in which  
5 the property had its situs.

6 (3) Intangibles. Capital gains and losses from sales or  
7 exchanges of intangible personal property are allocable to  
8 this State if the taxpayer had its commercial domicile in  
9 this State at the time of such sale or exchange.

10 (c) Rents and royalties.

11 (1) Real property. Rents and royalties from real  
12 property are allocable to this State if the property is  
13 located in this State.

14 (2) Tangible personal property. Rents and royalties  
15 from tangible personal property are allocable to this  
16 State:

17 (A) If and to the extent that the property is  
18 utilized in this State; or

19 (B) In their entirety if, at the time such rents or  
20 royalties were paid or accrued, the taxpayer had its  
21 commercial domicile in this State and was not organized  
22 under the laws of or taxable with respect to such rents  
23 or royalties in the state in which the property was  
24 utilized. The extent of utilization of tangible  
25 personal property in a state is determined by  
26 multiplying the rents or royalties derived from such

1 property by a fraction, the numerator of which is the  
2 number of days of physical location of the property in  
3 the state during the rental or royalty period in the  
4 taxable year and the denominator of which is the number  
5 of days of physical location of the property everywhere  
6 during all rental or royalty periods in the taxable  
7 year. If the physical location of the property during  
8 the rental or royalty period is unknown or  
9 unascertainable by the taxpayer, tangible personal  
10 property is utilized in the state in which the property  
11 was located at the time the rental or royalty payer  
12 obtained possession.

13 (d) Patent and copyright royalties.

14 (1) Allocation. Patent and copyright royalties are  
15 allocable to this State:

16 (A) If and to the extent that the patent or  
17 copyright is utilized by the payer in this State; or

18 (B) If and to the extent that the patent or  
19 copyright is utilized by the payer in a state in which  
20 the taxpayer is not taxable with respect to such  
21 royalties and, at the time such royalties were paid or  
22 accrued, the taxpayer had its commercial domicile in  
23 this State.

24 (2) Utilization.

25 (A) A patent is utilized in a state to the extent  
26 that it is employed in production, fabrication,

1 manufacturing or other processing in the state or to  
2 the extent that a patented product is produced in the  
3 state. If the basis of receipts from patent royalties  
4 does not permit allocation to states or if the  
5 accounting procedures do not reflect states of  
6 utilization, the patent is utilized in this State if  
7 the taxpayer has its commercial domicile in this State.

8 (B) A copyright is utilized in a state to the  
9 extent that printing or other publication originates  
10 in the state. If the basis of receipts from copyright  
11 royalties does not permit allocation to states or if  
12 the accounting procedures do not reflect states of  
13 utilization, the copyright is utilized in this State if  
14 the taxpayer has its commercial domicile in this State.

15 (e) Illinois lottery; wagering and gambling winnings  
16 ~~prizes~~. Prizes awarded under the Illinois Lottery Law are  
17 allocable to this State. Payments received in taxable years  
18 ending on or after December 31, 2013, from the assignment of a  
19 prize under Section 13.1 of the Illinois Lottery Law are  
20 allocable to this State. For taxable years ending on or after  
21 December 31, 2018, payments of winnings from pari-mutuel  
22 wagering conducted at a wagering facility licensed under the  
23 Illinois Horse Racing Act of 1975 and from gambling games  
24 conducted on a riverboat licensed under the Riverboat Gambling  
25 Act are allocable to this State.

26 (e-5) Unemployment benefits. Unemployment benefits paid by

1 the Illinois Department of Employment Security are allocable to  
2 this State.

3 (f) Taxability in other state. For purposes of allocation  
4 of income pursuant to this Section, a taxpayer is taxable in  
5 another state if:

6 (1) In that state he is subject to a net income tax, a  
7 franchise tax measured by net income, a franchise tax for  
8 the privilege of doing business, or a corporate stock tax;  
9 or

10 (2) That state has jurisdiction to subject the taxpayer  
11 to a net income tax regardless of whether, in fact, the  
12 state does or does not.

13 (g) Cross references.

14 (1) For allocation of interest and dividends by persons  
15 other than residents, see Section 301(c)(2).

16 (2) For allocation of nonbusiness income by residents,  
17 see Section 301(a).

18 (Source: P.A. 97-709, eff. 7-1-12; 98-496, eff. 1-1-14.)

19 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

21 (a) In general. The business income of a person other than  
22 a resident shall be allocated to this State if such person's  
23 business income is derived solely from this State. If a person  
24 other than a resident derives business income from this State  
25 and one or more other states, then, for tax years ending on or

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

16 (1) Property factor.

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

25 (B) Property owned by the person is valued at its  
26 original cost. Property rented by the person is valued at 8

1 times the net annual rental rate. Net annual rental rate is  
2 the annual rental rate paid by the person less any annual  
3 rental rate received by the person from sub-rentals.

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

10 (2) Payroll factor.

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

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

17 (i) The individual's service is performed entirely  
18 within this State;

19 (ii) The individual's service is performed both  
20 within and without this State, but the service  
21 performed without this State is incidental to the  
22 individual's service performed within this State; or

23 (iii) Some of the service is performed within this  
24 State and either the base of operations, or if there is  
25 no base of operations, the place from which the service  
26 is directed or controlled is within this State, or the



1 base of operations or the place from which the service  
2 is directed or controlled is not in any state in which  
3 some part of the service is performed, but the  
4 individual's residence is in this State.

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

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

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

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

25 (1) The term "professional athletic team"  
26 includes, but is not limited to, any professional

1 baseball, basketball, football, soccer, or hockey  
2 team.

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

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

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

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

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

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

26 (D) Days for which a member of a

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

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

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

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

26 (B) during the taxable year on a date which

1 does not fall within the foregoing period  
2 (e.g., participation in instructional leagues,  
3 the "All Star Game", or promotional caravans).

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

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

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

6 (3) Sales factor.

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

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

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

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

1 personal property are not in this State if the seller  
2 and purchaser would be members of the same unitary  
3 business group but for the fact that either the seller  
4 or purchaser is a person with 80% or more of total  
5 business activity outside of the United States and the  
6 property is purchased for resale.

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

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

16 (ii) Place of utilization.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

26 "Directory assistance" means an "ancillary

1 service" of providing telephone number information,  
2 and/or address information.

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

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

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

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

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

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

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

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

1 switching capacity, extension lines, stations, and any  
2 other associated services that are provided in  
3 connection with the use of such channel or channels.

4 "Service address" means:

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

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

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

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

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

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

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

15 (c) Tangible personal property;

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

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

20 (f) Internet access service;

21 (g) Radio and television audio and video  
22 programming services, regardless of the medium,  
23 including the furnishing of transmission,  
24 conveyance and routing of such services by the  
25 programming service provider. Radio and television  
26 audio and video programming services shall include

1 but not be limited to cable service as defined in  
2 47 USC 522(6) and audio and video programming  
3 services delivered by commercial mobile radio  
4 service providers, as defined in 47 CFR 20.3;

5 (h) "Ancillary services"; or

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

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

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

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

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

1           (b) The call either originates or terminates  
2           in this State and the service address is located in  
3           this State.

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

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

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

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

26               (b) 100% of receipts from charges for the total



1 channel mileage between each channel termination  
2 point in this State.

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

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

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

26 (vii) Receipts to access a carrier's network or

1 from the sale of telecommunication services or  
2 ancillary services for resale are in this State as  
3 follows:

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

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

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

19 (d) Gross receipts from sales of  
20 telecommunication services or from ancillary  
21 services for telecommunications services sold to  
22 other telecommunication service providers for  
23 resale shall be sourced to this State using the  
24 apportionment concepts used for non-resale  
25 receipts of telecommunications services if the  
26 information is readily available to make that

1           determination. If the information is not readily  
2           available, then the taxpayer may use any other  
3           reasonable and consistent method.

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

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

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

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

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

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

1           notwithstanding that the series relates to the same  
2           principal subject and is produced during one or more  
3           tax periods.

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

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

26                   (iii) In the case where film or radio

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

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

1 broadcasting service in Illinois.

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

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

20 (B-9) Gross receipts from winnings from pari-mutuel  
21 wagering conducted at a wagering facility licensed under  
22 the Illinois Horse Racing Act of 1975 or from winnings from  
23 gambling games conducted on a riverboat licensed under the  
24 Riverboat Gambling Act are in this State. This paragraph  
25 (B-9) applies only to taxable years ending on or after  
26 December 31, 2018.

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

4 (i) The income-producing activity is performed in  
5 this State; or

6 (ii) The income-producing activity is performed  
7 both within and without this State and a greater  
8 proportion of the income-producing activity is  
9 performed within this State than without this State,  
10 based on performance costs.

11 (C-5) For taxable years ending on or after December 31,  
12 2008, sales, other than sales governed by paragraphs (B),  
13 (B-1), (B-2), (B-5), ~~and~~ (B-7), (B-8), and (B-9), are in  
14 this State if any of the following criteria are met:

15 (i) Sales from the sale or lease of real property  
16 are in this State if the property is located in this  
17 State.

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



1           (iii) In the case of interest, net gains (but not  
2 less than zero) and other items of income from  
3 intangible personal property, the sale is in this State  
4 if:

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

20           (b) in all other cases, if the  
21 income-producing activity of the taxpayer is  
22 performed in this State or, if the  
23 income-producing activity of the taxpayer is  
24 performed both within and without this State, if a  
25 greater proportion of the income-producing  
26 activity of the taxpayer is performed within this

1 State than in any other state, based on performance  
2 costs.

3 (iv) Sales of services are in this State if the  
4 services are received in this State. For the purposes  
5 of this section, gross receipts from the performance of  
6 services provided to a corporation, partnership, or  
7 trust may only be attributed to a state where that  
8 corporation, partnership, or trust has a fixed place of  
9 business. If the state where the services are received  
10 is not readily determinable or is a state where the  
11 corporation, partnership, or trust receiving the  
12 service does not have a fixed place of business, the  
13 services shall be deemed to be received at the location  
14 of the office of the customer from which the services  
15 were ordered in the regular course of the customer's  
16 trade or business. If the ordering office cannot be  
17 determined, the services shall be deemed to be received  
18 at the office of the customer to which the services are  
19 billed. If the taxpayer is not taxable in the state in  
20 which the services are received, the sale must be  
21 excluded from both the numerator and the denominator of  
22 the sales factor. The Department shall adopt rules  
23 prescribing where specific types of service are  
24 received, including, but not limited to, publishing,  
25 and utility service.

26 (D) For taxable years ending on or after December 31,

1           1995, the following items of income shall not be included  
2           in the numerator or denominator of the sales factor:  
3           dividends; amounts included under Section 78 of the  
4           Internal Revenue Code; and Subpart F income as defined in  
5           Section 952 of the Internal Revenue Code. No inference  
6           shall be drawn from the enactment of this paragraph (D) in  
7           construing this Section for taxable years ending before  
8           December 31, 1995.

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

26          (b) Insurance companies.

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

16           (2) Reinsurance. If the principal source of premiums  
17 written by an insurance company consists of premiums for  
18 reinsurance accepted by it, the business income of such  
19 company shall be apportioned to this State by multiplying  
20 such income by a fraction, the numerator of which is the  
21 sum of (i) direct premiums written for insurance upon  
22 property or risk in this State, plus (ii) premiums written  
23 for reinsurance accepted in respect of property or risk in  
24 this State, and the denominator of which is the sum of  
25 (iii) direct premiums written for insurance upon property  
26 or risk everywhere, plus (iv) premiums written for

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

21 (c) Financial organizations.

22 (1) In general. For taxable years ending before  
23 December 31, 2008, business income of a financial  
24 organization shall be apportioned to this State by  
25 multiplying such income by a fraction, the numerator of  
26 which is its business income from sources within this

1 State, and the denominator of which is its business income  
2 from all sources. For the purposes of this subsection, the  
3 business income of a financial organization from sources  
4 within this State is the sum of the amounts referred to in  
5 subparagraphs (A) through (E) following, but excluding the  
6 adjusted income of an international banking facility as  
7 determined in paragraph (2):

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

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

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

14 (D) Interest charged to customers at places of  
15 business maintained within this State for carrying  
16 debit balances of margin accounts, without deduction  
17 of any costs incurred in carrying such accounts; and

18 (E) Any other gross income resulting from the  
19 operation as a financial organization within this  
20 State. In computing the amounts referred to in  
21 paragraphs (A) through (E) of this subsection, any  
22 amount received by a member of an affiliated group  
23 (determined under Section 1504(a) of the Internal  
24 Revenue Code but without reference to whether any such  
25 corporation is an "includible corporation" under  
26 Section 1504(b) of the Internal Revenue Code) from

1 another member of such group shall be included only to  
2 the extent such amount exceeds expenses of the  
3 recipient directly related thereto.

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

6 (A) Adjusted Income. The adjusted income of an  
7 international banking facility is its income reduced  
8 by the amount of the floor amount.

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

13 (i) The numerator shall be:

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

1           The average aggregate, determined on a  
2           quarterly basis, of such loans (other than loans of  
3           an international banking facility), as reported by  
4           the financial institution for its branches,  
5           agencies and offices within the state, on the  
6           corresponding Schedule and lines of the  
7           Consolidated Report of Condition for the current  
8           taxable year, provided, however, that in no case  
9           shall the amount determined in this clause (the  
10          subtrahend) exceed the amount determined in the  
11          preceding clause (the minuend); and

12           (ii) the denominator shall be the average  
13          aggregate, determined on a quarterly basis, of the  
14          international banking facility's loans to banks in  
15          foreign countries, to foreign domiciled borrowers  
16          (except where secured primarily by real estate)  
17          and to foreign governments and other foreign  
18          official institutions, which were recorded in its  
19          financial accounts for the current taxable year.

20          (C) Change to Consolidated Report of Condition and  
21          in Qualification. In the event the Consolidated Report  
22          of Condition which is filed with the Federal Deposit  
23          Insurance Corporation and other regulatory authorities  
24          is altered so that the information required for  
25          determining the floor amount is not found on Schedule  
26          A, lines 2.c., 5.b. and 7.a., the financial institution



1 shall notify the Department and the Department may, by  
2 regulations or otherwise, prescribe or authorize the  
3 use of an alternative source for such information. The  
4 financial institution shall also notify the Department  
5 should its international banking facility fail to  
6 qualify as such, in whole or in part, or should there  
7 be any amendment or change to the Consolidated Report  
8 of Condition, as originally filed, to the extent such  
9 amendment or change alters the information used in  
10 determining the floor amount.

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

25 (i) Receipts from the lease or rental of real or  
26 tangible personal property are in this State if the

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

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

13 (iii) Interest income, commissions, fees, gains on  
14 disposition, and other receipts from consumer loans  
15 that are not secured by real or tangible personal  
16 property are from sources in this State if the debtor  
17 is a resident of this State.

18 (iv) Interest income, commissions, fees, gains on  
19 disposition, and other receipts from commercial loans  
20 and installment obligations that are not secured by  
21 real or tangible personal property are from sources in  
22 this State if the proceeds of the loan are to be  
23 applied in this State. If it cannot be determined where  
24 the funds are to be applied, the income and receipts  
25 are from sources in this State if the office of the  
26 borrower from which the loan was negotiated in the

1 regular course of business is located in this State. If  
2 the location of this office cannot be determined, the  
3 income and receipts shall be excluded from the  
4 numerator and denominator of the sales factor.

5 (v) Interest income, fees, gains on disposition,  
6 service charges, merchant discount income, and other  
7 receipts from credit card receivables are from sources  
8 in this State if the card charges are regularly billed  
9 to a customer in this State.

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

15 (vii) Receipts from the issuance of travelers  
16 checks and money orders are from sources in this State  
17 if the checks and money orders are issued from a  
18 location within this State.

19 (viii) Receipts from investment assets and  
20 activities and trading assets and activities are  
21 included in the receipts factor as follows:

22 (1) Interest, dividends, net gains (but not  
23 less than zero) and other income from investment  
24 assets and activities from trading assets and  
25 activities shall be included in the receipts  
26 factor. Investment assets and activities and

1 trading assets and activities include but are not  
2 limited to: investment securities; trading account  
3 assets; federal funds; securities purchased and  
4 sold under agreements to resell or repurchase;  
5 options; futures contracts; forward contracts;  
6 notional principal contracts such as swaps;  
7 equities; and foreign currency transactions. With  
8 respect to the investment and trading assets and  
9 activities described in subparagraphs (A) and (B)  
10 of this paragraph, the receipts factor shall  
11 include the amounts described in such  
12 subparagraphs.

13 (A) The receipts factor shall include the  
14 amount by which interest from federal funds  
15 sold and securities purchased under resale  
16 agreements exceeds interest expense on federal  
17 funds purchased and securities sold under  
18 repurchase agreements.

19 (B) The receipts factor shall include the  
20 amount by which interest, dividends, gains and  
21 other income from trading assets and  
22 activities, including but not limited to  
23 assets and activities in the matched book, in  
24 the arbitrage book, and foreign currency  
25 transactions, exceed amounts paid in lieu of  
26 interest, amounts paid in lieu of dividends,

1 and losses from such assets and activities.

2 (2) The numerator of the receipts factor  
3 includes interest, dividends, net gains (but not  
4 less than zero), and other income from investment  
5 assets and activities and from trading assets and  
6 activities described in paragraph (1) of this  
7 subsection that are attributable to this State.

8 (A) The amount of interest, dividends, net  
9 gains (but not less than zero), and other  
10 income from investment assets and activities  
11 in the investment account to be attributed to  
12 this State and included in the numerator is  
13 determined by multiplying all such income from  
14 such assets and activities by a fraction, the  
15 numerator of which is the gross income from  
16 such assets and activities which are properly  
17 assigned to a fixed place of business of the  
18 taxpayer within this State and the denominator  
19 of which is the gross income from all such  
20 assets and activities.

21 (B) The amount of interest from federal  
22 funds sold and purchased and from securities  
23 purchased under resale agreements and  
24 securities sold under repurchase agreements  
25 attributable to this State and included in the  
26 numerator is determined by multiplying the

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

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

1 (D) Properly assigned, for purposes of  
2 this paragraph (2) of this subsection, means  
3 the investment or trading asset or activity is  
4 assigned to the fixed place of business with  
5 which it has a preponderance of substantive  
6 contacts. An investment or trading asset or  
7 activity assigned by the taxpayer to a fixed  
8 place of business without the State shall be  
9 presumed to have been properly assigned if:

10 (i) the taxpayer has assigned, in the  
11 regular course of its business, such asset  
12 or activity on its records to a fixed place  
13 of business consistent with federal or  
14 state regulatory requirements;

15 (ii) such assignment on its records is  
16 based upon substantive contacts of the  
17 asset or activity to such fixed place of  
18 business; and

19 (iii) the taxpayer uses such records  
20 reflecting assignment of such assets or  
21 activities for the filing of all state and  
22 local tax returns for which an assignment  
23 of such assets or activities to a fixed  
24 place of business is required.

25 (E) The presumption of proper assignment  
26 of an investment or trading asset or activity

1 provided in subparagraph (D) of paragraph (2)  
2 of this subsection may be rebutted upon a  
3 showing by the Department, supported by a  
4 preponderance of the evidence, that the  
5 preponderance of substantive contacts  
6 regarding such asset or activity did not occur  
7 at the fixed place of business to which it was  
8 assigned on the taxpayer's records. If the  
9 fixed place of business that has a  
10 preponderance of substantive contacts cannot  
11 be determined for an investment or trading  
12 asset or activity to which the presumption in  
13 subparagraph (D) of paragraph (2) of this  
14 subsection does not apply or with respect to  
15 which that presumption has been rebutted, that  
16 asset or activity is properly assigned to the  
17 state in which the taxpayer's commercial  
18 domicile is located. For purposes of this  
19 subparagraph (E), it shall be presumed,  
20 subject to rebuttal, that taxpayer's  
21 commercial domicile is in the state of the  
22 United States or the District of Columbia to  
23 which the greatest number of employees are  
24 regularly connected with the management of the  
25 investment or trading income or out of which  
26 they are working, irrespective of where the



1 services of such employees are performed, as of  
2 the last day of the taxable year.

3 (4) (Blank).

4 (5) (Blank).

5 (c-1) Federally regulated exchanges. For taxable years  
6 ending on or after December 31, 2012, business income of a  
7 federally regulated exchange shall, at the option of the  
8 federally regulated exchange, be apportioned to this State by  
9 multiplying such income by a fraction, the numerator of which  
10 is its business income from sources within this State, and the  
11 denominator of which is its business income from all sources.  
12 For purposes of this subsection, the business income within  
13 this State of a federally regulated exchange is the sum of the  
14 following:

15 (1) Receipts attributable to transactions executed on  
16 a physical trading floor if that physical trading floor is  
17 located in this State.

18 (2) Receipts attributable to all other matching,  
19 execution, or clearing transactions, including without  
20 limitation receipts from the provision of matching,  
21 execution, or clearing services to another entity,  
22 multiplied by (i) for taxable years ending on or after  
23 December 31, 2012 but before December 31, 2013, 63.77%; and  
24 (ii) for taxable years ending on or after December 31,  
25 2013, 27.54%.

26 (3) All other receipts not governed by subparagraphs

1 (1) or (2) of this subsection (c-1), to the extent the  
2 receipts would be characterized as "sales in this State"  
3 under item (3) of subsection (a) of this Section.

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

21 In no event shall the Illinois apportionment percentage  
22 computed in accordance with this subsection (c-1) for any  
23 taxpayer for any tax year be less than the Illinois  
24 apportionment percentage computed under this subsection (c-1)  
25 for that taxpayer for the first full tax year ending on or  
26 after December 31, 2013 for which this subsection (c-1) applied

1 to the taxpayer.

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

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

20 (A) relative railway operating income from total  
21 passenger and total freight service, as reported to the  
22 Interstate Commerce Commission, in the case of  
23 transportation by railroad, and

24 (B) relative gross receipts from passenger and  
25 freight transportation, in case of transportation  
26 other than by railroad.

1           (2) Such business income derived from transportation  
2 by pipeline shall be apportioned to this State by  
3 multiplying such income by a fraction, the numerator of  
4 which is the revenue miles of the person in this State, and  
5 the denominator of which is the revenue miles of the person  
6 everywhere. For the purposes of this paragraph, a revenue  
7 mile is the transportation by pipeline of 1 barrel of oil,  
8 1,000 cubic feet of gas, or of any specified quantity of  
9 any other substance, the distance of 1 mile for a  
10 consideration.

11           (3) For taxable years ending on or after December 31,  
12 2008, business income derived from providing  
13 transportation services other than airline services shall  
14 be apportioned to this State by using a fraction, (a) the  
15 numerator of which shall be (i) all receipts from any  
16 movement or shipment of people, goods, mail, oil, gas, or  
17 any other substance (other than by airline) that both  
18 originates and terminates in this State, plus (ii) that  
19 portion of the person's gross receipts from movements or  
20 shipments of people, goods, mail, oil, gas, or any other  
21 substance (other than by airline) that originates in one  
22 state or jurisdiction and terminates in another state or  
23 jurisdiction, that is determined by the ratio that the  
24 miles traveled in this State bears to total miles  
25 everywhere and (b) the denominator of which shall be all  
26 revenue derived from the movement or shipment of people,

1 goods, mail, oil, gas, or any other substance (other than  
2 by airline). Where a taxpayer is engaged in the  
3 transportation of both passengers and freight, the  
4 fraction above referred to shall first be determined  
5 separately for passenger miles and freight miles. Then an  
6 average of the passenger miles fraction and the freight  
7 miles fraction shall be weighted to reflect the taxpayer's:

8 (A) relative railway operating income from total  
9 passenger and total freight service, as reported to the  
10 Surface Transportation Board, in the case of  
11 transportation by railroad; and

12 (B) relative gross receipts from passenger and  
13 freight transportation, in case of transportation  
14 other than by railroad.

15 (4) For taxable years ending on or after December 31,  
16 2008, business income derived from furnishing airline  
17 transportation services shall be apportioned to this State  
18 by multiplying such income by a fraction, the numerator of  
19 which is the revenue miles of the person in this State, and  
20 the denominator of which is the revenue miles of the person  
21 everywhere. For purposes of this paragraph, a revenue mile  
22 is the transportation of one passenger or one net ton of  
23 freight the distance of one mile for a consideration. If a  
24 person is engaged in the transportation of both passengers  
25 and freight, the fraction above referred to shall be  
26 determined by means of an average of the passenger revenue

1 mile fraction and the freight revenue mile fraction,  
2 weighted to reflect the person's relative gross receipts  
3 from passenger and freight airline transportation.

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

10 (f) Alternative allocation. If the allocation and  
11 apportionment provisions of subsections (a) through (e) and of  
12 subsection (h) do not, for taxable years ending before December  
13 31, 2008, fairly represent the extent of a person's business  
14 activity in this State, or, for taxable years ending on or  
15 after December 31, 2008, fairly represent the market for the  
16 person's goods, services, or other sources of business income,  
17 the person may petition for, or the Director may, without a  
18 petition, permit or require, in respect of all or any part of  
19 the person's business activity, if reasonable:

20 (1) Separate accounting;

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

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

25 (4) The employment of any other method to effectuate an  
26 equitable allocation and apportionment of the person's

1 business income.

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

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

7 (1) for tax years ending on or after December 31, 1998  
8 and before December 31, 1999, 16 2/3% of the property  
9 factor plus 16 2/3% of the payroll factor plus 66 2/3% of  
10 the sales factor;

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

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

17 If, in any tax year ending on or after December 31, 1998 and  
18 before December 31, 2000, the denominator of the payroll,  
19 property, or sales factor is zero, the apportionment factor  
20 computed in paragraph (1) or (2) of this subsection for that  
21 year shall be divided by an amount equal to 100% minus the  
22 percentage weight given to each factor whose denominator is  
23 equal to zero.

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

25 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

1           Sec. 710. Withholding from lottery, wagering and gambling  
2 winnings.

3           (a) In general.

4           (1) Any person making a payment to a resident or  
5 nonresident of winnings under the Illinois Lottery Law and  
6 not required to withhold Illinois income tax from such  
7 payment under Subsection (b) of Section 701 of this Act  
8 because those winnings are not subject to Federal income  
9 tax withholding, must withhold Illinois income tax from  
10 such payment at a rate equal to the percentage tax rate for  
11 individuals provided in subsection (b) of Section 201,  
12 provided that withholding is not required if such payment  
13 of winnings is less than \$1,000.

14           (2) In the case of an assignment of a lottery prize  
15 under Section 13.1 of the Illinois Lottery Law, any person  
16 making a payment of the purchase price after December 31,  
17 2013, shall withhold from the amount of each payment at a  
18 rate equal to the percentage tax rate for individuals  
19 provided in subsection (b) of Section 201.

20           (3) Any person making a payment after December 31,  
21 2018, to a resident or nonresident of winnings from  
22 pari-mutuel wagering conducted at a wagering facility  
23 licensed under the Illinois Horse Racing Act of 1975 or  
24 from gambling games conducted on a riverboat licensed under  
25 the Riverboat Gambling Act must withhold Illinois income  
26 tax from such payment at a rate equal to the percentage tax



1       rate for individuals provided in subsection (b) of Section  
2       201, provided that withholding is required only if the  
3       payment must be reported to the Internal Revenue Service by  
4       the person making the payment.

5       (b) Credit for taxes withheld. Any amount withheld under  
6       Subsection (a) shall be a credit against the Illinois income  
7       tax liability of the person to whom the payment of winnings was  
8       made for the taxable year in which that person incurred an  
9       Illinois income tax liability with respect to those winnings.  
10      (Source: P.A. 98-496, eff. 1-1-14.)

11       Section 99. Effective date. This Act takes effect upon  
12      becoming law.