



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5061

Introduced 2/18/2020, by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. In provisions concerning business income of persons other than residents, removes provisions providing that sales of tangible personal property are in this State if the property is shipped from an office, store, warehouse, factory or other place of storage in this State and the purchaser is not subject to tax in the state of the purchaser.

LRB101 19282 HLH 68748 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

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

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

5 (1) Property factor.

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

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

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

25 (2) Payroll factor.

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

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

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

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

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

12 (iii) For tax years ending prior to December 31,
13 2020, some of the service is performed within this
14 State and either the base of operations, or if there is
15 no base of operations, the place from which the service
16 is directed or controlled is within this State, or the
17 base of operations or the place from which the service
18 is directed or controlled is not in any state in which
19 some part of the service is performed, but the
20 individual's residence is in this State. For tax years
21 ending on or after December 31, 2020, compensation is
22 paid in this State if some of the individual's service
23 is performed within this State, the individual's
24 service performed within this State is nonincidental
25 to the individual's service performed without this
26 State, and the individual's service is performed

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

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

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

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

26 (2) the only service the individual

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

4 (c) Working days spent within this State do not
5 include any day in which the employee is performing
6 services in this State during a disaster period
7 solely in response to a request made to his or her
8 employer by the government of this State, by any
9 political subdivision of this State, or by a person
10 conducting business in this State to perform
11 disaster or emergency-related services in this
12 State. For purposes of this item (c):

13 "Declared State disaster or emergency"
14 means a disaster or emergency event (i) for
15 which a Governor's proclamation of a state of
16 emergency has been issued or (ii) for which a
17 Presidential declaration of a federal major
18 disaster or emergency has been issued.

19 "Disaster period" means a period that
20 begins 10 days prior to the date of the
21 Governor's proclamation or the President's
22 declaration (whichever is earlier) and extends
23 for a period of 60 calendar days after the end
24 of the declared disaster or emergency period.

25 "Disaster or emergency-related services"
26 means repairing, renovating, installing,

1 building, or rendering services or conducting
2 other business activities that relate to
3 infrastructure that has been damaged,
4 impaired, or destroyed by the declared State
5 disaster or emergency.

6 "Infrastructure" means property and
7 equipment owned or used by a public utility,
8 communications network, broadband and internet
9 service provider, cable and video service
10 provider, electric or gas distribution system,
11 or water pipeline that provides service to more
12 than one customer or person, including related
13 support facilities. "Infrastructure" includes,
14 but is not limited to, real and personal
15 property such as buildings, offices, power
16 lines, cable lines, poles, communications
17 lines, pipes, structures, and equipment.

18 (iv) Compensation paid to nonresident professional
19 athletes.

20 (a) General. The Illinois source income of a
21 nonresident individual who is a member of a
22 professional athletic team includes the portion of the
23 individual's total compensation for services performed
24 as a member of a professional athletic team during the
25 taxable year which the number of duty days spent within
26 this State performing services for the team in any

1 manner during the taxable year bears to the total
2 number of duty days spent both within and without this
3 State during the taxable year.

4 (b) Travel days. Travel days that do not involve
5 either a game, practice, team meeting, or other similar
6 team event are not considered duty days spent in this
7 State. However, such travel days are considered in the
8 total duty days spent both within and without this
9 State.

10 (c) Definitions. For purposes of this subpart
11 (iv):

12 (1) The term "professional athletic team"
13 includes, but is not limited to, any professional
14 baseball, basketball, football, soccer, or hockey
15 team.

16 (2) The term "member of a professional
17 athletic team" includes those employees who are
18 active players, players on the disabled list, and
19 any other persons required to travel and who travel
20 with and perform services on behalf of a
21 professional athletic team on a regular basis.
22 This includes, but is not limited to, coaches,
23 managers, and trainers.

24 (3) Except as provided in items (C) and (D) of
25 this subpart (3), the term "duty days" means all
26 days during the taxable year from the beginning of

1 team during the period from the beginning of
2 the professional athletic team's official
3 pre-season training period through the last
4 game in which the team competes, or is
5 scheduled to compete, shall begin on the day
6 that person joins the team. Conversely, duty
7 days for any person who leaves a team during
8 this period shall end on the day that person
9 leaves the team. Where a person switches teams
10 during a taxable year, a separate duty-day
11 calculation shall be made for the period the
12 person was with each team.

13 (D) Days for which a member of a
14 professional athletic team is not compensated
15 and is not performing services for the team in
16 any manner, including days when such member of
17 a professional athletic team has been
18 suspended without pay and prohibited from
19 performing any services for the team, shall not
20 be treated as duty days.

21 (E) Days for which a member of a
22 professional athletic team is on the disabled
23 list and does not conduct rehabilitation
24 activities at facilities of the team, and is
25 not otherwise performing services for the team
26 in Illinois, shall not be considered duty days

1 spent in this State. All days on the disabled
2 list, however, are considered to be included in
3 total duty days spent both within and without
4 this State.

5 (4) The term "total compensation for services
6 performed as a member of a professional athletic
7 team" means the total compensation received during
8 the taxable year for services performed:

9 (A) from the beginning of the official
10 pre-season training period through the last
11 game in which the team competes or is scheduled
12 to compete during that taxable year; and

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

17 This compensation shall include, but is not
18 limited to, salaries, wages, bonuses as described
19 in this subpart, and any other type of compensation
20 paid during the taxable year to a member of a
21 professional athletic team for services performed
22 in that year. This compensation does not include
23 strike benefits, severance pay, termination pay,
24 contract or option year buy-out payments,
25 expansion or relocation payments, or any other
26 payments not related to services performed for the

1 team.

2 For purposes of this subparagraph, "bonuses"
3 included in "total compensation for services
4 performed as a member of a professional athletic
5 team" subject to the allocation described in
6 Section 302(c)(1) are: bonuses earned as a result
7 of play (i.e., performance bonuses) during the
8 season, including bonuses paid for championship,
9 playoff or "bowl" games played by a team, or for
10 selection to all-star league or other honorary
11 positions; and bonuses paid for signing a
12 contract, unless the payment of the signing bonus
13 is not conditional upon the signee playing any
14 games for the team or performing any subsequent
15 services for the team or even making the team, the
16 signing bonus is payable separately from the
17 salary and any other compensation, and the signing
18 bonus is nonrefundable.

19 (3) Sales factor.

20 (A) The sales factor is a fraction, the numerator of
21 which is the total sales of the person in this State during
22 the taxable year, and the denominator of which is the total
23 sales of the person everywhere during the taxable year.

24 (B) Sales of tangible personal property are in this
25 State if:

26 (i) The property is delivered or shipped to a

1 purchaser, other than the United States government,
2 within this State regardless of the f. o. b. point or
3 other conditions of the sale; or

4 (ii) The property is shipped from an office, store,
5 warehouse, factory or other place of storage in this
6 State and ~~either~~ the purchaser is the United States
7 government ~~or the person is not taxable in the state of~~
8 ~~the purchaser~~; provided, however, that premises owned
9 or leased by a person who has independently contracted
10 with the seller for the printing of newspapers,
11 periodicals or books shall not be deemed to be an
12 office, store, warehouse, factory or other place of
13 storage for purposes of this Section. Sales of tangible
14 personal property are not in this State if the seller
15 and purchaser would be members of the same unitary
16 business group but for the fact that either the seller
17 or purchaser is a person with 80% or more of total
18 business activity outside of the United States and the
19 property is purchased for resale.

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

22 (i) Gross receipts from the licensing, sale, or
23 other disposition of a patent, copyright, trademark,
24 or similar item of intangible personal property, other
25 than gross receipts governed by paragraph (B-7) of this
26 item (3), are in this State to the extent the item is

1 utilized in this State during the year the gross
2 receipts are included in gross income.

3 (ii) Place of utilization.

4 (I) A patent is utilized in a state to the
5 extent that it is employed in production,
6 fabrication, manufacturing, or other processing in
7 the state or to the extent that a patented product
8 is produced in the state. If a patent is utilized
9 in more than one state, the extent to which it is
10 utilized in any one state shall be a fraction equal
11 to the gross receipts of the licensee or purchaser
12 from sales or leases of items produced,
13 fabricated, manufactured, or processed within that
14 state using the patent and of patented items
15 produced within that state, divided by the total of
16 such gross receipts for all states in which the
17 patent is utilized.

18 (II) A copyright is utilized in a state to the
19 extent that printing or other publication
20 originates in the state. If a copyright is utilized
21 in more than one state, the extent to which it is
22 utilized in any one state shall be a fraction equal
23 to the gross receipts from sales or licenses of
24 materials printed or published in that state
25 divided by the total of such gross receipts for all
26 states in which the copyright is utilized.

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

5 (iii) If the state of utilization of an item of
6 property governed by this paragraph (B-1) cannot be
7 determined from the taxpayer's books and records or
8 from the books and records of any person related to the
9 taxpayer within the meaning of Section 267(b) of the
10 Internal Revenue Code, 26 U.S.C. 267, the gross
11 receipts attributable to that item shall be excluded
12 from both the numerator and the denominator of the
13 sales factor.

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

1 (B-5) For taxable years ending on or after December 31,
2 2008, except as provided in subsections (ii) through (vii),
3 receipts from the sale of telecommunications service or
4 mobile telecommunications service are in this State if the
5 customer's service address is in this State.

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

8 "Ancillary services" means services that are
9 associated with or incidental to the provision of
10 "telecommunications services", including, but not
11 limited to, "detailed telecommunications billing",
12 "directory assistance", "vertical service", and "voice
13 mail services".

14 "Air-to-Ground Radiotelephone service" means a
15 radio service, as that term is defined in 47 CFR 22.99,
16 in which common carriers are authorized to offer and
17 provide radio telecommunications service for hire to
18 subscribers in aircraft.

19 "Call-by-call Basis" means any method of charging
20 for telecommunications services where the price is
21 measured by individual calls.

22 "Communications Channel" means a physical or
23 virtual path of communications over which signals are
24 transmitted between or among customer channel
25 termination points.

26 "Conference bridging service" means an "ancillary

1 service" that links two or more participants of an
2 audio or video conference call and may include the
3 provision of a telephone number. "Conference bridging
4 service" does not include the "telecommunications
5 services" used to reach the conference bridge.

6 "Customer Channel Termination Point" means the
7 location where the customer either inputs or receives
8 the communications.

9 "Detailed telecommunications billing service"
10 means an "ancillary service" of separately stating
11 information pertaining to individual calls on a
12 customer's billing statement.

13 "Directory assistance" means an "ancillary
14 service" of providing telephone number information,
15 and/or address information.

16 "Home service provider" means the facilities based
17 carrier or reseller with which the customer contracts
18 for the provision of mobile telecommunications
19 services.

20 "Mobile telecommunications service" means
21 commercial mobile radio service, as defined in Section
22 20.3 of Title 47 of the Code of Federal Regulations as
23 in effect on June 1, 1999.

24 "Place of primary use" means the street address
25 representative of where the customer's use of the
26 telecommunications service primarily occurs, which

1 must be the residential street address or the primary
2 business street address of the customer. In the case of
3 mobile telecommunications services, "place of primary
4 use" must be within the licensed service area of the
5 home service provider.

6 "Post-paid telecommunication service" means the
7 telecommunications service obtained by making a
8 payment on a call-by-call basis either through the use
9 of a credit card or payment mechanism such as a bank
10 card, travel card, credit card, or debit card, or by
11 charge made to a telephone number which is not
12 associated with the origination or termination of the
13 telecommunications service. A post-paid calling
14 service includes telecommunications service, except a
15 prepaid wireless calling service, that would be a
16 prepaid calling service except it is not exclusively a
17 telecommunication service.

18 "Prepaid telecommunication service" means the
19 right to access exclusively telecommunications
20 services, which must be paid for in advance and which
21 enables the origination of calls using an access number
22 or authorization code, whether manually or
23 electronically dialed, and that is sold in
24 predetermined units or dollars of which the number
25 declines with use in a known amount.

26 "Prepaid Mobile telecommunication service" means a

1 telecommunications service that provides the right to
2 utilize mobile wireless service as well as other
3 non-telecommunication services, including, but not
4 limited to, ancillary services, which must be paid for
5 in advance that is sold in predetermined units or
6 dollars of which the number declines with use in a
7 known amount.

8 "Private communication service" means a
9 telecommunication service that entitles the customer
10 to exclusive or priority use of a communications
11 channel or group of channels between or among
12 termination points, regardless of the manner in which
13 such channel or channels are connected, and includes
14 switching capacity, extension lines, stations, and any
15 other associated services that are provided in
16 connection with the use of such channel or channels.

17 "Service address" means:

18 (a) The location of the telecommunications
19 equipment to which a customer's call is charged and
20 from which the call originates or terminates,
21 regardless of where the call is billed or paid;

22 (b) If the location in line (a) is not known,
23 service address means the origination point of the
24 signal of the telecommunications services first
25 identified by either the seller's
26 telecommunications system or in information

1 received by the seller from its service provider
2 where the system used to transport such signals is
3 not that of the seller; and

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

7 "Telecommunications service" means the electronic
8 transmission, conveyance, or routing of voice, data,
9 audio, video, or any other information or signals to a
10 point, or between or among points. The term
11 "telecommunications service" includes such
12 transmission, conveyance, or routing in which computer
13 processing applications are used to act on the form,
14 code or protocol of the content for purposes of
15 transmission, conveyance or routing without regard to
16 whether such service is referred to as voice over
17 Internet protocol services or is classified by the
18 Federal Communications Commission as enhanced or value
19 added. "Telecommunications service" does not include:

20 (a) Data processing and information services
21 that allow data to be generated, acquired, stored,
22 processed, or retrieved and delivered by an
23 electronic transmission to a purchaser when such
24 purchaser's primary purpose for the underlying
25 transaction is the processed data or information;

26 (b) Installation or maintenance of wiring or

1 equipment on a customer's premises;

2 (c) Tangible personal property;

3 (d) Advertising, including, but not limited
4 to, directory advertising;

5 (e) Billing and collection services provided
6 to third parties;

7 (f) Internet access service;

8 (g) Radio and television audio and video
9 programming services, regardless of the medium,
10 including the furnishing of transmission,
11 conveyance and routing of such services by the
12 programming service provider. Radio and television
13 audio and video programming services shall
14 include, but not be limited to, cable service as
15 defined in 47 USC 522(6) and audio and video
16 programming services delivered by commercial
17 mobile radio service providers, as defined in 47
18 CFR 20.3;

19 (h) "Ancillary services"; or

20 (i) Digital products "delivered
21 electronically", including, but not limited to,
22 software, music, video, reading materials or ring
23 tones.

24 "Vertical service" means an "ancillary service"
25 that is offered in connection with one or more
26 "telecommunications services", which offers advanced

1 calling features that allow customers to identify
2 callers and to manage multiple calls and call
3 connections, including "conference bridging services".

4 "Voice mail service" means an "ancillary service"
5 that enables the customer to store, send or receive
6 recorded messages. "Voice mail service" does not
7 include any "vertical services" that the customer may
8 be required to have in order to utilize the "voice mail
9 service".

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

13 (a) The call both originates and terminates in
14 this State.

15 (b) The call either originates or terminates
16 in this State and the service address is located in
17 this State.

18 (iii) Receipts from the sale of postpaid
19 telecommunications service at retail are in this State
20 if the origination point of the telecommunication
21 signal, as first identified by the service provider's
22 telecommunication system or as identified by
23 information received by the seller from its service
24 provider if the system used to transport
25 telecommunication signals is not the seller's, is
26 located in this State.

1 (iv) Receipts from the sale of prepaid
2 telecommunications service or prepaid mobile
3 telecommunications service at retail are in this State
4 if the purchaser obtains the prepaid card or similar
5 means of conveyance at a location in this State.
6 Receipts from recharging a prepaid telecommunications
7 service or mobile telecommunications service is in
8 this State if the purchaser's billing information
9 indicates a location in this State.

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

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

14 (b) 100% of receipts from charges for the total
15 channel mileage between each channel termination
16 point in this State.

17 (c) 50% of the total receipts from charges for
18 service segments when those segments are between 2
19 customer channel termination points, 1 of which is
20 located in this State and the other is located
21 outside of this State, which segments are
22 separately charged.

23 (d) The receipts from charges for service
24 segments with a channel termination point located
25 in this State and in two or more other states, and
26 which segments are not separately billed, are in

1 this State based on a percentage determined by
2 dividing the number of customer channel
3 termination points in this State by the total
4 number of customer channel termination points.

5 (vi) Receipts from charges for ancillary services
6 for telecommunications service sold to customers at
7 retail are in this State if the customer's primary
8 place of use of telecommunications services associated
9 with those ancillary services is in this State. If the
10 seller of those ancillary services cannot determine
11 where the associated telecommunications are located,
12 then the ancillary services shall be based on the
13 location of the purchaser.

14 (vii) Receipts to access a carrier's network or
15 from the sale of telecommunication services or
16 ancillary services for resale are in this State as
17 follows:

18 (a) 100% of the receipts from access fees
19 attributable to intrastate telecommunications
20 service that both originates and terminates in
21 this State.

22 (b) 50% of the receipts from access fees
23 attributable to interstate telecommunications
24 service if the interstate call either originates
25 or terminates in this State.

26 (c) 100% of the receipts from interstate end

1 user access line charges, if the customer's
2 service address is in this State. As used in this
3 subdivision, "interstate end user access line
4 charges" includes, but is not limited to, the
5 surcharge approved by the federal communications
6 commission and levied pursuant to 47 CFR 69.

7 (d) Gross receipts from sales of
8 telecommunication services or from ancillary
9 services for telecommunications services sold to
10 other telecommunication service providers for
11 resale shall be sourced to this State using the
12 apportionment concepts used for non-resale
13 receipts of telecommunications services if the
14 information is readily available to make that
15 determination. If the information is not readily
16 available, then the taxpayer may use any other
17 reasonable and consistent method.

18 (B-7) For taxable years ending on or after December 31,
19 2008, receipts from the sale of broadcasting services are
20 in this State if the broadcasting services are received in
21 this State. For purposes of this paragraph (B-7), the
22 following terms have the following meanings:

23 "Advertising revenue" means consideration received
24 by the taxpayer in exchange for broadcasting services
25 or allowing the broadcasting of commercials or
26 announcements in connection with the broadcasting of

1 film or radio programming, from sponsorships of the
2 programming, or from product placements in the
3 programming.

4 "Audience factor" means the ratio that the
5 audience or subscribers located in this State of a
6 station, a network, or a cable system bears to the
7 total audience or total subscribers for that station,
8 network, or cable system. The audience factor for film
9 or radio programming shall be determined by reference
10 to the books and records of the taxpayer or by
11 reference to published rating statistics provided the
12 method used by the taxpayer is consistently used from
13 year to year for this purpose and fairly represents the
14 taxpayer's activity in this State.

15 "Broadcast" or "broadcasting" or "broadcasting
16 services" means the transmission or provision of film
17 or radio programming, whether through the public
18 airwaves, by cable, by direct or indirect satellite
19 transmission, or by any other means of communication,
20 either through a station, a network, or a cable system.

21 "Film" or "film programming" means the broadcast
22 on television of any and all performances, events, or
23 productions, including, but not limited to, news,
24 sporting events, plays, stories, or other literary,
25 commercial, educational, or artistic works, either
26 live or through the use of video tape, disc, or any

1 other type of format or medium. Each episode of a
2 series of films produced for television shall
3 constitute separate "film" notwithstanding that the
4 series relates to the same principal subject and is
5 produced during one or more tax periods.

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

18 (i) In the case of advertising revenue from
19 broadcasting, the customer is the advertiser and
20 the service is received in this State if the
21 commercial domicile of the advertiser is in this
22 State.

23 (ii) In the case where film or radio
24 programming is broadcast by a station, a network,
25 or a cable system for a fee or other remuneration
26 received from the recipient of the broadcast, the

1 portion of the service that is received in this
2 State is measured by the portion of the recipients
3 of the broadcast located in this State.
4 Accordingly, the fee or other remuneration for
5 such service that is included in the Illinois
6 numerator of the sales factor is the total of those
7 fees or other remuneration received from
8 recipients in Illinois. For purposes of this
9 paragraph, a taxpayer may determine the location
10 of the recipients of its broadcast using the
11 address of the recipient shown in its contracts
12 with the recipient or using the billing address of
13 the recipient in the taxpayer's records.

14 (iii) In the case where film or radio
15 programming is broadcast by a station, a network,
16 or a cable system for a fee or other remuneration
17 from the person providing the programming, the
18 portion of the broadcast service that is received
19 by such station, network, or cable system in this
20 State is measured by the portion of recipients of
21 the broadcast located in this State. Accordingly,
22 the amount of revenue related to such an
23 arrangement that is included in the Illinois
24 numerator of the sales factor is the total fee or
25 other total remuneration from the person providing
26 the programming related to that broadcast

1 multiplied by the Illinois audience factor for
2 that broadcast.

3 (iv) In the case where film or radio
4 programming is provided by a taxpayer that is a
5 network or station to a customer for broadcast in
6 exchange for a fee or other remuneration from that
7 customer the broadcasting service is received at
8 the location of the office of the customer from
9 which the services were ordered in the regular
10 course of the customer's trade or business.
11 Accordingly, in such a case the revenue derived by
12 the taxpayer that is included in the taxpayer's
13 Illinois numerator of the sales factor is the
14 revenue from such customers who receive the
15 broadcasting service in Illinois.

16 (v) In the case where film or radio programming
17 is provided by a taxpayer that is not a network or
18 station to another person for broadcasting in
19 exchange for a fee or other remuneration from that
20 person, the broadcasting service is received at
21 the location of the office of the customer from
22 which the services were ordered in the regular
23 course of the customer's trade or business.
24 Accordingly, in such a case the revenue derived by
25 the taxpayer that is included in the taxpayer's
26 Illinois numerator of the sales factor is the

1 revenue from such customers who receive the
2 broadcasting service in Illinois.

3 (B-8) Gross receipts from winnings under the Illinois
4 Lottery Law from the assignment of a prize under Section
5 13.1 of the Illinois Lottery Law are received in this
6 State. This paragraph (B-8) applies only to taxable years
7 ending on or after December 31, 2013.

8 (B-9) For taxable years ending on or after December 31,
9 2019, gross receipts from winnings from pari-mutuel
10 wagering conducted at a wagering facility licensed under
11 the Illinois Horse Racing Act of 1975 or from winnings from
12 gambling games conducted on a riverboat or in a casino or
13 organization gaming facility licensed under the Illinois
14 Gambling Act are in this State.

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

18 (i) The income-producing activity is performed in
19 this State; or

20 (ii) The income-producing activity is performed
21 both within and without this State and a greater
22 proportion of the income-producing activity is
23 performed within this State than without this State,
24 based on performance costs.

25 (C-5) For taxable years ending on or after December 31,
26 2008, sales, other than sales governed by paragraphs (B),

1 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
2 the following criteria are met:

3 (i) Sales from the sale or lease of real property
4 are in this State if the property is located in this
5 State.

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

15 (iii) In the case of interest, net gains (but not
16 less than zero) and other items of income from
17 intangible personal property, the sale is in this State
18 if:

19 (a) in the case of a taxpayer who is a dealer
20 in the item of intangible personal property within
21 the meaning of Section 475 of the Internal Revenue
22 Code, the income or gain is received from a
23 customer in this State. For purposes of this
24 subparagraph, a customer is in this State if the
25 customer is an individual, trust or estate who is a
26 resident of this State and, for all other

1 customers, if the customer's commercial domicile
2 is in this State. Unless the dealer has actual
3 knowledge of the residence or commercial domicile
4 of a customer during a taxable year, the customer
5 shall be deemed to be a customer in this State if
6 the billing address of the customer, as shown in
7 the records of the dealer, is in this State; or

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

17 (iv) Sales of services are in this State if the
18 services are received in this State. For the purposes
19 of this section, gross receipts from the performance of
20 services provided to a corporation, partnership, or
21 trust may only be attributed to a state where that
22 corporation, partnership, or trust has a fixed place of
23 business. If the state where the services are received
24 is not readily determinable or is a state where the
25 corporation, partnership, or trust receiving the
26 service does not have a fixed place of business, the

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

14 (D) For taxable years ending on or after December 31,
15 1995, the following items of income shall not be included
16 in the numerator or denominator of the sales factor:
17 dividends; amounts included under Section 78 of the
18 Internal Revenue Code; and Subpart F income as defined in
19 Section 952 of the Internal Revenue Code. No inference
20 shall be drawn from the enactment of this paragraph (D) in
21 construing this Section for taxable years ending before
22 December 31, 1995.

23 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
24 ending on or after December 31, 1999, provided that a
25 taxpayer may elect to apply the provisions of these
26 paragraphs to prior tax years. Such election shall be made

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

14 (b) Insurance companies.

15 (1) In general. Except as otherwise provided by
16 paragraph (2), business income of an insurance company for
17 a taxable year shall be apportioned to this State by
18 multiplying such income by a fraction, the numerator of
19 which is the direct premiums written for insurance upon
20 property or risk in this State, and the denominator of
21 which is the direct premiums written for insurance upon
22 property or risk everywhere. For purposes of this
23 subsection, the term "direct premiums written" means the
24 total amount of direct premiums written, assessments and
25 annuity considerations as reported for the taxable year on
26 the annual statement filed by the company with the Illinois

1 Director of Insurance in the form approved by the National
2 Convention of Insurance Commissioners or such other form as
3 may be prescribed in lieu thereof.

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

1 the sum of the total direct premiums written by each such
2 ceding company for the taxable year. The election made by a
3 company under this paragraph for its first taxable year
4 ending on or after December 31, 2011, shall be binding for
5 that company for that taxable year and for all subsequent
6 taxable years, and may be altered only with the written
7 permission of the Department, which shall not be
8 unreasonably withheld.

9 (c) Financial organizations.

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

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

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

26 (C) Dividends, and interest from Illinois

1 customers, which are received within this State;

2 (D) Interest charged to customers at places of
3 business maintained within this State for carrying
4 debit balances of margin accounts, without deduction
5 of any costs incurred in carrying such accounts; and

6 (E) Any other gross income resulting from the
7 operation as a financial organization within this
8 State.

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

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

20 (A) Adjusted Income. The adjusted income of an
21 international banking facility is its income reduced
22 by the amount of the floor amount.

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

1 (i) The numerator shall be:

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

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

26 (ii) the denominator shall be the average

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

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

25 (3) For taxable years ending on or after December 31,
26 2008, the business income of a financial organization shall

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

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

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

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

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

19 (v) Interest income, fees, gains on disposition,
20 service charges, merchant discount income, and other
21 receipts from credit card receivables are from sources
22 in this State if the card charges are regularly billed
23 to a customer in this State.

24 (vi) Receipts from the performance of services,
25 including, but not limited to, fiduciary, advisory,
26 and brokerage services, are in this State if the

1 services are received in this State within the meaning
2 of subparagraph (a) (3) (C-5) (iv) of this Section.

3 (vii) Receipts from the issuance of travelers
4 checks and money orders are from sources in this State
5 if the checks and money orders are issued from a
6 location within this State.

7 (viii) Receipts from investment assets and
8 activities and trading assets and activities are
9 included in the receipts factor as follows:

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

1 (A) The receipts factor shall include the
2 amount by which interest from federal funds
3 sold and securities purchased under resale
4 agreements exceeds interest expense on federal
5 funds purchased and securities sold under
6 repurchase agreements.

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

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

22 (A) The amount of interest, dividends, net
23 gains (but not less than zero), and other
24 income from investment assets and activities
25 in the investment account to be attributed to
26 this State and included in the numerator is

1 determined by multiplying all such income from
2 such assets and activities by a fraction, the
3 numerator of which is the gross income from
4 such assets and activities which are properly
5 assigned to a fixed place of business of the
6 taxpayer within this State and the denominator
7 of which is the gross income from all such
8 assets and activities.

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

24 (C) The amount of interest, dividends,
25 gains, and other income from trading assets and
26 activities, including, but not limited to,

1 assets and activities in the matched book, in
2 the arbitrage book and foreign currency
3 transactions (but excluding amounts described
4 in subparagraphs (A) or (B) of this paragraph),
5 attributable to this State and included in the
6 numerator is determined by multiplying the
7 amount described in subparagraph (B) of
8 paragraph (1) of this subsection by a fraction,
9 the numerator of which is the gross income from
10 such trading assets and activities which are
11 properly assigned to a fixed place of business
12 of the taxpayer within this State and the
13 denominator of which is the gross income from
14 all such assets and activities.

15 (D) Properly assigned, for purposes of
16 this paragraph (2) of this subsection, means
17 the investment or trading asset or activity is
18 assigned to the fixed place of business with
19 which it has a preponderance of substantive
20 contacts. An investment or trading asset or
21 activity assigned by the taxpayer to a fixed
22 place of business without the State shall be
23 presumed to have been properly assigned if:

24 (i) the taxpayer has assigned, in the
25 regular course of its business, such asset
26 or activity on its records to a fixed place

1 of business consistent with federal or
2 state regulatory requirements;

3 (ii) such assignment on its records is
4 based upon substantive contacts of the
5 asset or activity to such fixed place of
6 business; and

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

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

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

17 (4) (Blank).

18 (5) (Blank).

19 (c-1) Federally regulated exchanges. For taxable years
20 ending on or after December 31, 2012, business income of a
21 federally regulated exchange shall, at the option of the
22 federally regulated exchange, be apportioned to this State by
23 multiplying such income by a fraction, the numerator of which
24 is its business income from sources within this State, and the
25 denominator of which is its business income from all sources.
26 For purposes of this subsection, the business income within

1 this State of a federally regulated exchange is the sum of the
2 following:

3 (1) Receipts attributable to transactions executed on
4 a physical trading floor if that physical trading floor is
5 located in this State.

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

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

18 "Federally regulated exchange" means (i) a "registered
19 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),
20 or (C), (ii) an "exchange" or "clearing agency" within the
21 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such
22 entities regulated under any successor regulatory structure to
23 the foregoing, and (iv) all taxpayers who are members of the
24 same unitary business group as a federally regulated exchange,
25 determined without regard to the prohibition in Section
26 1501(a) (27) of this Act against including in a unitary business

1 group taxpayers who are ordinarily required to apportion
2 business income under different subsections of this Section;
3 provided that this subparagraph (iv) shall apply only if 50% or
4 more of the business receipts of the unitary business group
5 determined by application of this subparagraph (iv) for the
6 taxable year are attributable to the matching, execution, or
7 clearing of transactions conducted by an entity described in
8 subparagraph (i), (ii), or (iii) of this paragraph.

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

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

20 (1) Such business income (other than that derived from
21 transportation by pipeline) shall be apportioned to this
22 State by multiplying such income by a fraction, the
23 numerator of which is the revenue miles of the person in
24 this State, and the denominator of which is the revenue
25 miles of the person everywhere. For purposes of this
26 paragraph, a revenue mile is the transportation of 1

1 passenger or 1 net ton of freight the distance of 1 mile
2 for a consideration. Where a person is engaged in the
3 transportation of both passengers and freight, the
4 fraction above referred to shall be determined by means of
5 an average of the passenger revenue mile fraction and the
6 freight revenue mile fraction, weighted to reflect the
7 person's

8 (A) relative railway operating income from total
9 passenger and total freight service, as reported to the
10 Interstate Commerce Commission, 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 (2) Such business income derived from transportation
16 by pipeline shall be apportioned to this State by
17 multiplying such income by a fraction, the numerator of
18 which is the revenue miles of the person in this State, and
19 the denominator of which is the revenue miles of the person
20 everywhere. For the purposes of this paragraph, a revenue
21 mile is the transportation by pipeline of 1 barrel of oil,
22 1,000 cubic feet of gas, or of any specified quantity of
23 any other substance, the distance of 1 mile for a
24 consideration.

25 (3) For taxable years ending on or after December 31,
26 2008, business income derived from providing

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

22 (A) relative railway operating income from total
23 passenger and total freight service, as reported to the
24 Surface Transportation Board, in the case of
25 transportation by railroad; and

26 (B) relative gross receipts from passenger and

1 freight transportation, in case of transportation
2 other than by railroad.

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

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

24 (f) Alternative allocation. If the allocation and
25 apportionment provisions of subsections (a) through (e) and of
26 subsection (h) do not, for taxable years ending before December

1 31, 2008, fairly represent the extent of a person's business
2 activity in this State, or, for taxable years ending on or
3 after December 31, 2008, fairly represent the market for the
4 person's goods, services, or other sources of business income,
5 the person may petition for, or the Director may, without a
6 petition, permit or require, in respect of all or any part of
7 the person's business activity, if reasonable:

8 (1) Separate accounting;

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

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

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

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

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

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

25 (2) for tax years ending on or after December 31, 1999
26 and before December 31, 2000, 8 1/3% of the property factor

1 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales
2 factor;

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

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

12 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;
13 101-585, eff. 8-26-19; revised 9-12-19.)