



Rep. Gregory Harris

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1 AMENDMENT TO SENATE BILL 689

2 AMENDMENT NO. _____. Amend Senate Bill 689, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "ARTICLE 10. AMENDATORY PROVISIONS

6 Section 10-3. The State Finance Act is amended by changing
7 Section 6z-81 as follows:

8 (30 ILCS 105/6z-81)

9 Sec. 6z-81. Healthcare Provider Relief Fund.

10 (a) There is created in the State treasury a special fund
11 to be known as the Healthcare Provider Relief Fund.

12 (b) The Fund is created for the purpose of receiving and
13 disbursing moneys in accordance with this Section.
14 Disbursements from the Fund shall be made only as follows:

15 (1) Subject to appropriation, for payment by the

1 Department of Healthcare and Family Services or by the
2 Department of Human Services of medical bills and related
3 expenses, including administrative expenses, for which the
4 State is responsible under Titles XIX and XXI of the Social
5 Security Act, the Illinois Public Aid Code, the Children's
6 Health Insurance Program Act, the Covering ALL KIDS Health
7 Insurance Act, and the Long Term Acute Care Hospital
8 Quality Improvement Transfer Program Act.

9 (2) For repayment of funds borrowed from other State
10 funds or from outside sources, including interest thereon.

11 (3) For State fiscal years 2017, 2018, and 2019, for
12 making payments to the human poison control center pursuant
13 to Section 12-4.105 of the Illinois Public Aid Code.

14 (c) The Fund shall consist of the following:

15 (1) Moneys received by the State from short-term
16 borrowing pursuant to the Short Term Borrowing Act on or
17 after the effective date of Public Act 96-820.

18 (2) All federal matching funds received by the Illinois
19 Department of Healthcare and Family Services as a result of
20 expenditures made by the Department that are attributable
21 to moneys deposited in the Fund.

22 (3) All federal matching funds received by the Illinois
23 Department of Healthcare and Family Services as a result of
24 federal approval of Title XIX State plan amendment
25 transmittal number 07-09.

26 (3.5) Proceeds from the assessment authorized under

1 Article V-H of the Public Aid Code.

2 (4) All other moneys received for the Fund from any
3 other source, including interest earned thereon.

4 (5) All federal matching funds received by the Illinois
5 Department of Healthcare and Family Services as a result of
6 expenditures made by the Department for Medical Assistance
7 from the General Revenue Fund, the Tobacco Settlement
8 Recovery Fund, the Long-Term Care Provider Fund, and the
9 Drug Rebate Fund related to individuals eligible for
10 medical assistance pursuant to the Patient Protection and
11 Affordable Care Act (P.L. 111-148) and Section 5-2 of the
12 Illinois Public Aid Code.

13 (d) In addition to any other transfers that may be provided
14 for by law, on the effective date of Public Act 97-44, or as
15 soon thereafter as practical, the State Comptroller shall
16 direct and the State Treasurer shall transfer the sum of
17 \$365,000,000 from the General Revenue Fund into the Healthcare
18 Provider Relief Fund.

19 (e) In addition to any other transfers that may be provided
20 for by law, on July 1, 2011, or as soon thereafter as
21 practical, the State Comptroller shall direct and the State
22 Treasurer shall transfer the sum of \$160,000,000 from the
23 General Revenue Fund to the Healthcare Provider Relief Fund.

24 (f) Notwithstanding any other State law to the contrary,
25 and in addition to any other transfers that may be provided for
26 by law, the State Comptroller shall order transferred and the

1 State Treasurer shall transfer \$500,000,000 to the Healthcare
2 Provider Relief Fund from the General Revenue Fund in equal
3 monthly installments of \$100,000,000, with the first transfer
4 to be made on July 1, 2012, or as soon thereafter as practical,
5 and with each of the remaining transfers to be made on August
6 1, 2012, September 1, 2012, October 1, 2012, and November 1,
7 2012, or as soon thereafter as practical. This transfer may
8 assist the Department of Healthcare and Family Services in
9 improving Medical Assistance bill processing timeframes or in
10 meeting the possible requirements of Senate Bill 3397, or other
11 similar legislation, of the 97th General Assembly should it
12 become law.

13 (g) Notwithstanding any other State law to the contrary,
14 and in addition to any other transfers that may be provided for
15 by law, on July 1, 2013, or as soon thereafter as may be
16 practical, the State Comptroller shall direct and the State
17 Treasurer shall transfer the sum of \$601,000,000 from the
18 General Revenue Fund to the Healthcare Provider Relief Fund.

19 (Source: P.A. 99-516, eff. 6-30-16; 100-587, eff. 6-4-18.)

20 Section 10-5. The Illinois Income Tax Act is amended by
21 changing Section 203 as follows:

22 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

23 Sec. 203. Base income defined.

24 (a) Individuals.

1 (1) In general. In the case of an individual, base
2 income means an amount equal to the taxpayer's adjusted
3 gross income for the taxable year as modified by paragraph
4 (2).

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

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

15 (B) An amount equal to the amount of tax imposed by
16 this Act to the extent deducted from gross income in
17 the computation of adjusted gross income for the
18 taxable year;

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

1 multi-use structures and farm dwellings, the taxes on
2 the taxpayer's principal residence shall be that
3 portion of the total taxes for the entire property
4 which is attributable to such principal residence;

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

9 (D-5) An amount, to the extent not included in
10 adjusted gross income, equal to the amount of money
11 withdrawn by the taxpayer in the taxable year from a
12 medical care savings account and the interest earned on
13 the account in the taxable year of a withdrawal
14 pursuant to subsection (b) of Section 20 of the Medical
15 Care Savings Account Act or subsection (b) of Section
16 20 of the Medical Care Savings Account Act of 2000;

17 (D-10) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the individual deducted in computing adjusted
20 gross income and for which the individual claims a
21 credit under subsection (1) of Section 201;

22 (D-15) For taxable years 2001 and thereafter, an
23 amount equal to the bonus depreciation deduction taken
24 on the taxpayer's federal income tax return for the
25 taxable year under subsection (k) of Section 168 of the
26 Internal Revenue Code;

1 (D-16) If the taxpayer sells, transfers, abandons,
2 or otherwise disposes of property for which the
3 taxpayer was required in any taxable year to make an
4 addition modification under subparagraph (D-15), then
5 an amount equal to the aggregate amount of the
6 deductions taken in all taxable years under
7 subparagraph (Z) with respect to that property.

8 If the taxpayer continues to own property through
9 the last day of the last tax year for which the
10 taxpayer may claim a depreciation deduction for
11 federal income tax purposes and for which the taxpayer
12 was allowed in any taxable year to make a subtraction
13 modification under subparagraph (Z), then an amount
14 equal to that subtraction modification.

15 The taxpayer is required to make the addition
16 modification under this subparagraph only once with
17 respect to any one piece of property;

18 (D-17) An amount equal to the amount otherwise
19 allowed as a deduction in computing base income for
20 interest paid, accrued, or incurred, directly or
21 indirectly, (i) for taxable years ending on or after
22 December 31, 2004, to a foreign person who would be a
23 member of the same unitary business group but for the
24 fact that foreign person's business activity outside
25 the United States is 80% or more of the foreign
26 person's total business activity and (ii) for taxable

1 years ending on or after December 31, 2008, to a person
2 who would be a member of the same unitary business
3 group but for the fact that the person is prohibited
4 under Section 1501(a)(27) from being included in the
5 unitary business group because he or she is ordinarily
6 required to apportion business income under different
7 subsections of Section 304. The addition modification
8 required by this subparagraph shall be reduced to the
9 extent that dividends were included in base income of
10 the unitary group for the same taxable year and
11 received by the taxpayer or by a member of the
12 taxpayer's unitary business group (including amounts
13 included in gross income under Sections 951 through 964
14 of the Internal Revenue Code and amounts included in
15 gross income under Section 78 of the Internal Revenue
16 Code) with respect to the stock of the same person to
17 whom the interest was paid, accrued, or incurred.

18 This paragraph shall not apply to the following:

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

25 (ii) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a person if

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

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

7 (b) the transaction giving rise to the
8 interest expense between the taxpayer and the
9 person did not have as a principal purpose the
10 avoidance of Illinois income tax, and is paid
11 pursuant to a contract or agreement that
12 reflects an arm's-length interest rate and
13 terms; or

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

20 (iv) an item of interest paid, accrued, or
21 incurred, directly or indirectly, to a person if
22 the taxpayer establishes by clear and convincing
23 evidence that the adjustments are unreasonable; or
24 if the taxpayer and the Director agree in writing
25 to the application or use of an alternative method
26 of apportionment under Section 304(f).

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

10 (D-18) An amount equal to the amount of intangible
11 expenses and costs otherwise allowed as a deduction in
12 computing base income, and that were paid, accrued, or
13 incurred, directly or indirectly, (i) for taxable
14 years ending on or after December 31, 2004, to a
15 foreign person who would be a member of the same
16 unitary business group but for the fact that the
17 foreign person's business activity outside the United
18 States is 80% or more of that person's total business
19 activity and (ii) for taxable years ending on or after
20 December 31, 2008, to a person who would be a member of
21 the same unitary business group but for the fact that
22 the person is prohibited under Section 1501(a)(27)
23 from being included in the unitary business group
24 because he or she is ordinarily required to apportion
25 business income under different subsections of Section
26 304. The addition modification required by this

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

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

3 This paragraph shall not apply to the following:

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

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

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

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

1 (iii) any item of intangible expense or cost
2 paid, accrued, or incurred, directly or
3 indirectly, from a transaction with a person if the
4 taxpayer establishes by clear and convincing
5 evidence, that the adjustments are unreasonable;
6 or if the taxpayer and the Director agree in
7 writing to the application or use of an alternative
8 method of apportionment under Section 304(f);

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

18 (D-19) For taxable years ending on or after
19 December 31, 2008, an amount equal to the amount of
20 insurance premium expenses and costs otherwise allowed
21 as a deduction in computing base income, and that were
22 paid, accrued, or incurred, directly or indirectly, to
23 a person who would be a member of the same unitary
24 business group but for the fact that the person is
25 prohibited under Section 1501(a)(27) from being
26 included in the unitary business group because he or

1 she is ordinarily required to apportion business
2 income under different subsections of Section 304. The
3 addition modification required by this subparagraph
4 shall be reduced to the extent that dividends were
5 included in base income of the unitary group for the
6 same taxable year and received by the taxpayer or by a
7 member of the taxpayer's unitary business group
8 (including amounts included in gross income under
9 Sections 951 through 964 of the Internal Revenue Code
10 and amounts included in gross income under Section 78
11 of the Internal Revenue Code) with respect to the stock
12 of the same person to whom the premiums and costs were
13 directly or indirectly paid, incurred, or accrued. The
14 preceding sentence does not apply to the extent that
15 the same dividends caused a reduction to the addition
16 modification required under Section 203(a)(2)(D-17) or
17 Section 203(a)(2)(D-18) of this Act.

18 (D-20) For taxable years beginning on or after
19 January 1, 2002 and ending on or before December 31,
20 2006, in the case of a distribution from a qualified
21 tuition program under Section 529 of the Internal
22 Revenue Code, other than (i) a distribution from a
23 College Savings Pool created under Section 16.5 of the
24 State Treasurer Act or (ii) a distribution from the
25 Illinois Prepaid Tuition Trust Fund, an amount equal to
26 the amount excluded from gross income under Section

1 529(c)(3)(B). For taxable years beginning on or after
2 January 1, 2007, in the case of a distribution from a
3 qualified tuition program under Section 529 of the
4 Internal Revenue Code, other than (i) a distribution
5 from a College Savings Pool created under Section 16.5
6 of the State Treasurer Act, (ii) a distribution from
7 the Illinois Prepaid Tuition Trust Fund, or (iii) a
8 distribution from a qualified tuition program under
9 Section 529 of the Internal Revenue Code that (I)
10 adopts and determines that its offering materials
11 comply with the College Savings Plans Network's
12 disclosure principles and (II) has made reasonable
13 efforts to inform in-state residents of the existence
14 of in-state qualified tuition programs by informing
15 Illinois residents directly and, where applicable, to
16 inform financial intermediaries distributing the
17 program to inform in-state residents of the existence
18 of in-state qualified tuition programs at least
19 annually, an amount equal to the amount excluded from
20 gross income under Section 529(c)(3)(B).

21 For the purposes of this subparagraph (D-20), a
22 qualified tuition program has made reasonable efforts
23 if it makes disclosures (which may use the term
24 "in-state program" or "in-state plan" and need not
25 specifically refer to Illinois or its qualified
26 programs by name) (i) directly to prospective

1 participants in its offering materials or makes a
2 public disclosure, such as a website posting; and (ii)
3 where applicable, to intermediaries selling the
4 out-of-state program in the same manner that the
5 out-of-state program distributes its offering
6 materials;

7 (D-20.5) For taxable years beginning on or after
8 January 1, 2018, in the case of a distribution from a
9 qualified ABLE program under Section 529A of the
10 Internal Revenue Code, other than a distribution from a
11 qualified ABLE program created under Section 16.6 of
12 the State Treasurer Act, an amount equal to the amount
13 excluded from gross income under Section 529A(c)(1)(B)
14 of the Internal Revenue Code;

15 (D-21) For taxable years beginning on or after
16 January 1, 2007, in the case of transfer of moneys from
17 a qualified tuition program under Section 529 of the
18 Internal Revenue Code that is administered by the State
19 to an out-of-state program, an amount equal to the
20 amount of moneys previously deducted from base income
21 under subsection (a)(2)(Y) of this Section;

22 (D-21.5) For taxable years beginning on or after
23 January 1, 2018, in the case of the transfer of moneys
24 from a qualified tuition program under Section 529 or a
25 qualified ABLE program under Section 529A of the
26 Internal Revenue Code that is administered by this

1 State to an ABLE account established under an
2 out-of-state ABLE account program, an amount equal to
3 the contribution component of the transferred amount
4 that was previously deducted from base income under
5 subsection (a)(2)(Y) or subsection (a)(2)(HH) of this
6 Section;

7 (D-22) For taxable years beginning on or after
8 January 1, 2009, and prior to January 1, 2018, in the
9 case of a nonqualified withdrawal or refund of moneys
10 from a qualified tuition program under Section 529 of
11 the Internal Revenue Code administered by the State
12 that is not used for qualified expenses at an eligible
13 education institution, an amount equal to the
14 contribution component of the nonqualified withdrawal
15 or refund that was previously deducted from base income
16 under subsection (a)(2)(y) of this Section, provided
17 that the withdrawal or refund did not result from the
18 beneficiary's death or disability. For taxable years
19 beginning on or after January 1, 2018: (1) in the case
20 of a nonqualified withdrawal or refund, as defined
21 under Section 16.5 of the State Treasurer Act, of
22 moneys from a qualified tuition program under Section
23 529 of the Internal Revenue Code administered by the
24 State, an amount equal to the contribution component of
25 the nonqualified withdrawal or refund that was
26 previously deducted from base income under subsection

1 (a) (2) (Y) of this Section, and (2) in the case of a
2 nonqualified withdrawal or refund from a qualified
3 ABLE program under Section 529A of the Internal Revenue
4 Code administered by the State that is not used for
5 qualified disability expenses, an amount equal to the
6 contribution component of the nonqualified withdrawal
7 or refund that was previously deducted from base income
8 under subsection (a) (2) (HH) of this Section;

9 (D-23) An amount equal to the credit allowable to
10 the taxpayer under Section 218(a) of this Act,
11 determined without regard to Section 218(c) of this
12 Act;

13 (D-24) For taxable years ending on or after
14 December 31, 2017, an amount equal to the deduction
15 allowed under Section 199 of the Internal Revenue Code
16 for the taxable year;

17 and by deducting from the total so obtained the sum of the
18 following amounts:

19 (E) For taxable years ending before December 31,
20 2001, any amount included in such total in respect of
21 any compensation (including but not limited to any
22 compensation paid or accrued to a serviceman while a
23 prisoner of war or missing in action) paid to a
24 resident by reason of being on active duty in the Armed
25 Forces of the United States and in respect of any
26 compensation paid or accrued to a resident who as a

1 governmental employee was a prisoner of war or missing
2 in action, and in respect of any compensation paid to a
3 resident in 1971 or thereafter for annual training
4 performed pursuant to Sections 502 and 503, Title 32,
5 United States Code as a member of the Illinois National
6 Guard or, beginning with taxable years ending on or
7 after December 31, 2007, the National Guard of any
8 other state. For taxable years ending on or after
9 December 31, 2001, any amount included in such total in
10 respect of any compensation (including but not limited
11 to any compensation paid or accrued to a serviceman
12 while a prisoner of war or missing in action) paid to a
13 resident by reason of being a member of any component
14 of the Armed Forces of the United States and in respect
15 of any compensation paid or accrued to a resident who
16 as a governmental employee was a prisoner of war or
17 missing in action, and in respect of any compensation
18 paid to a resident in 2001 or thereafter by reason of
19 being a member of the Illinois National Guard or,
20 beginning with taxable years ending on or after
21 December 31, 2007, the National Guard of any other
22 state. The provisions of this subparagraph (E) are
23 exempt from the provisions of Section 250;

24 (F) An amount equal to all amounts included in such
25 total pursuant to the provisions of Sections 402(a),
26 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the

1 Internal Revenue Code, or included in such total as
2 distributions under the provisions of any retirement
3 or disability plan for employees of any governmental
4 agency or unit, or retirement payments to retired
5 partners, which payments are excluded in computing net
6 earnings from self employment by Section 1402 of the
7 Internal Revenue Code and regulations adopted pursuant
8 thereto;

9 (G) The valuation limitation amount;

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

13 (I) An amount equal to all amounts included in such
14 total pursuant to the provisions of Section 111 of the
15 Internal Revenue Code as a recovery of items previously
16 deducted from adjusted gross income in the computation
17 of taxable income;

18 (J) An amount equal to those dividends included in
19 such total which were paid by a corporation which
20 conducts business operations in a River Edge
21 Redevelopment Zone or zones created under the River
22 Edge Redevelopment Zone Act, and conducts
23 substantially all of its operations in a River Edge
24 Redevelopment Zone or zones. This subparagraph (J) is
25 exempt from the provisions of Section 250;

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

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

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

14 (M) With the exception of any amounts subtracted
15 under subparagraph (N), an amount equal to the sum of
16 all amounts disallowed as deductions by (i) Sections
17 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal
18 Revenue Code, and all amounts of expenses allocable to
19 interest and disallowed as deductions by Section
20 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)
21 for taxable years ending on or after August 13, 1999,
22 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
23 the Internal Revenue Code, plus, for taxable years
24 ending on or after December 31, 2011, Section 45G(e)(3)
25 of the Internal Revenue Code and, for taxable years
26 ending on or after December 31, 2008, any amount

1 included in gross income under Section 87 of the
2 Internal Revenue Code; the provisions of this
3 subparagraph are exempt from the provisions of Section
4 250;

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

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

17 (P) An amount equal to the amount of the deduction
18 used to compute the federal income tax credit for
19 restoration of substantial amounts held under claim of
20 right for the taxable year pursuant to Section 1341 of
21 the Internal Revenue Code or of any itemized deduction
22 taken from adjusted gross income in the computation of
23 taxable income for restoration of substantial amounts
24 held under claim of right for the taxable year;

25 (Q) An amount equal to any amounts included in such
26 total, received by the taxpayer as an acceleration in

1 the payment of life, endowment or annuity benefits in
2 advance of the time they would otherwise be payable as
3 an indemnity for a terminal illness;

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

6 (S) An amount, to the extent included in adjusted
7 gross income, equal to the amount of a contribution
8 made in the taxable year on behalf of the taxpayer to a
9 medical care savings account established under the
10 Medical Care Savings Account Act or the Medical Care
11 Savings Account Act of 2000 to the extent the
12 contribution is accepted by the account administrator
13 as provided in that Act;

14 (T) An amount, to the extent included in adjusted
15 gross income, equal to the amount of interest earned in
16 the taxable year on a medical care savings account
17 established under the Medical Care Savings Account Act
18 or the Medical Care Savings Account Act of 2000 on
19 behalf of the taxpayer, other than interest added
20 pursuant to item (D-5) of this paragraph (2);

21 (U) For one taxable year beginning on or after
22 January 1, 1994, an amount equal to the total amount of
23 tax imposed and paid under subsections (a) and (b) of
24 Section 201 of this Act on grant amounts received by
25 the taxpayer under the Nursing Home Grant Assistance
26 Act during the taxpayer's taxable years 1992 and 1993;

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

1 deducted on the taxpayer's federal income tax return;

2 (W) For taxable years beginning on or after January
3 1, 1998, all amounts included in the taxpayer's federal
4 gross income in the taxable year from amounts converted
5 from a regular IRA to a Roth IRA. This paragraph is
6 exempt from the provisions of Section 250;

7 (X) For taxable year 1999 and thereafter, an amount
8 equal to the amount of any (i) distributions, to the
9 extent includible in gross income for federal income
10 tax purposes, made to the taxpayer because of his or
11 her status as a victim of persecution for racial or
12 religious reasons by Nazi Germany or any other Axis
13 regime or as an heir of the victim and (ii) items of
14 income, to the extent includible in gross income for
15 federal income tax purposes, attributable to, derived
16 from or in any way related to assets stolen from,
17 hidden from, or otherwise lost to a victim of
18 persecution for racial or religious reasons by Nazi
19 Germany or any other Axis regime immediately prior to,
20 during, and immediately after World War II, including,
21 but not limited to, interest on the proceeds receivable
22 as insurance under policies issued to a victim of
23 persecution for racial or religious reasons by Nazi
24 Germany or any other Axis regime by European insurance
25 companies immediately prior to and during World War II;
26 provided, however, this subtraction from federal

1 adjusted gross income does not apply to assets acquired
2 with such assets or with the proceeds from the sale of
3 such assets; provided, further, this paragraph shall
4 only apply to a taxpayer who was the first recipient of
5 such assets after their recovery and who is a victim of
6 persecution for racial or religious reasons by Nazi
7 Germany or any other Axis regime or as an heir of the
8 victim. The amount of and the eligibility for any
9 public assistance, benefit, or similar entitlement is
10 not affected by the inclusion of items (i) and (ii) of
11 this paragraph in gross income for federal income tax
12 purposes. This paragraph is exempt from the provisions
13 of Section 250;

14 (Y) For taxable years beginning on or after January
15 1, 2002 and ending on or before December 31, 2004,
16 moneys contributed in the taxable year to a College
17 Savings Pool account under Section 16.5 of the State
18 Treasurer Act, except that amounts excluded from gross
19 income under Section 529(c)(3)(C)(i) of the Internal
20 Revenue Code shall not be considered moneys
21 contributed under this subparagraph (Y). For taxable
22 years beginning on or after January 1, 2005, a maximum
23 of \$10,000 contributed in the taxable year to (i) a
24 College Savings Pool account under Section 16.5 of the
25 State Treasurer Act or (ii) the Illinois Prepaid
26 Tuition Trust Fund, except that amounts excluded from

1 gross income under Section 529(c)(3)(C)(i) of the
2 Internal Revenue Code shall not be considered moneys
3 contributed under this subparagraph (Y). For purposes
4 of this subparagraph, contributions made by an
5 employer on behalf of an employee, or matching
6 contributions made by an employee, shall be treated as
7 made by the employee. This subparagraph (Y) is exempt
8 from the provisions of Section 250;

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

15 (1) "y" equals the amount of the depreciation
16 deduction taken for the taxable year on the
17 taxpayer's federal income tax return on property
18 for which the bonus depreciation deduction was
19 taken in any year under subsection (k) of Section
20 168 of the Internal Revenue Code, but not including
21 the bonus depreciation deduction;

22 (2) for taxable years ending on or before
23 December 31, 2005, "x" equals "y" multiplied by 30
24 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (3) for taxable years ending after December

1 31, 2005:

2 (i) for property on which a bonus
3 depreciation deduction of 30% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 30 and then divided by 70 (or "y" multiplied by
6 0.429); and

7 (ii) for property on which a bonus
8 depreciation deduction of 50% of the adjusted
9 basis was taken, "x" equals "y" multiplied by
10 1.0.

11 The aggregate amount deducted under this
12 subparagraph in all taxable years for any one piece of
13 property may not exceed the amount of the bonus
14 depreciation deduction taken on that property on the
15 taxpayer's federal income tax return under subsection
16 (k) of Section 168 of the Internal Revenue Code. This
17 subparagraph (Z) is exempt from the provisions of
18 Section 250;

19 (AA) If the taxpayer sells, transfers, abandons,
20 or otherwise disposes of property for which the
21 taxpayer was required in any taxable year to make an
22 addition modification under subparagraph (D-15), then
23 an amount equal to that addition modification.

24 If the taxpayer continues to own property through
25 the last day of the last tax year for which the
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer
2 was required in any taxable year to make an addition
3 modification under subparagraph (D-15), then an amount
4 equal to that addition modification.

5 The taxpayer is allowed to take the deduction under
6 this subparagraph only once with respect to any one
7 piece of property.

8 This subparagraph (AA) is exempt from the
9 provisions of Section 250;

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

13 (CC) The amount of (i) any interest income (net of
14 the deductions allocable thereto) taken into account
15 for the taxable year with respect to a transaction with
16 a taxpayer that is required to make an addition
17 modification with respect to such transaction under
18 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
19 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
20 the amount of that addition modification, and (ii) any
21 income from intangible property (net of the deductions
22 allocable thereto) taken into account for the taxable
23 year with respect to a transaction with a taxpayer that
24 is required to make an addition modification with
25 respect to such transaction under Section
26 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or

1 203(d)(2)(D-8), but not to exceed the amount of that
2 addition modification. This subparagraph (CC) is
3 exempt from the provisions of Section 250;

4 (DD) An amount equal to the interest income taken
5 into account for the taxable year (net of the
6 deductions allocable thereto) with respect to
7 transactions with (i) a foreign person who would be a
8 member of the taxpayer's unitary business group but for
9 the fact that the foreign person's business activity
10 outside the United States is 80% or more of that
11 person's total business activity and (ii) for taxable
12 years ending on or after December 31, 2008, to a person
13 who would be a member of the same unitary business
14 group but for the fact that the person is prohibited
15 under Section 1501(a)(27) from being included in the
16 unitary business group because he or she is ordinarily
17 required to apportion business income under different
18 subsections of Section 304, but not to exceed the
19 addition modification required to be made for the same
20 taxable year under Section 203(a)(2)(D-17) for
21 interest paid, accrued, or incurred, directly or
22 indirectly, to the same person. This subparagraph (DD)
23 is exempt from the provisions of Section 250;

24 (EF) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the deductions allocable thereto) with respect to

1 transactions with (i) a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact that the foreign person's business activity
4 outside the United States is 80% or more of that
5 person's total business activity and (ii) for taxable
6 years ending on or after December 31, 2008, to a person
7 who would be a member of the same unitary business
8 group but for the fact that the person is prohibited
9 under Section 1501(a)(27) from being included in the
10 unitary business group because he or she is ordinarily
11 required to apportion business income under different
12 subsections of Section 304, but not to exceed the
13 addition modification required to be made for the same
14 taxable year under Section 203(a)(2)(D-18) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same foreign
17 person. This subparagraph (EE) is exempt from the
18 provisions of Section 250;

19 (FF) An amount equal to any amount awarded to the
20 taxpayer during the taxable year by the Court of Claims
21 under subsection (c) of Section 8 of the Court of
22 Claims Act for time unjustly served in a State prison.
23 This subparagraph (FF) is exempt from the provisions of
24 Section 250;

25 (GG) For taxable years ending on or after December
26 31, 2011, in the case of a taxpayer who was required to

1 add back any insurance premiums under Section
2 203(a)(2)(D-19), such taxpayer may elect to subtract
3 that part of a reimbursement received from the
4 insurance company equal to the amount of the expense or
5 loss (including expenses incurred by the insurance
6 company) that would have been taken into account as a
7 deduction for federal income tax purposes if the
8 expense or loss had been uninsured. If a taxpayer makes
9 the election provided for by this subparagraph (GG),
10 the insurer to which the premiums were paid must add
11 back to income the amount subtracted by the taxpayer
12 pursuant to this subparagraph (GG). This subparagraph
13 (GG) is exempt from the provisions of Section 250; and

14 (HH) For taxable years beginning on or after
15 January 1, 2018 and prior to January 1, 2023, a maximum
16 of \$10,000 contributed in the taxable year to a
17 qualified ABLE account under Section 16.6 of the State
18 Treasurer Act, except that amounts excluded from gross
19 income under Section 529(c)(3)(C)(i) or Section
20 529A(c)(1)(C) of the Internal Revenue Code shall not be
21 considered moneys contributed under this subparagraph
22 (HH). For purposes of this subparagraph (HH),
23 contributions made by an employer on behalf of an
24 employee, or matching contributions made by an
25 employee, shall be treated as made by the employee.

1 (b) Corporations.

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

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

8 (A) An amount equal to all amounts paid or accrued
9 to the taxpayer as interest and all distributions
10 received from regulated investment companies during
11 the taxable year to the extent excluded from gross
12 income in the computation of taxable income;

13 (B) An amount equal to the amount of tax imposed by
14 this Act to the extent deducted from gross income in
15 the computation of taxable income for the taxable year;

16 (C) In the case of a regulated investment company,
17 an amount equal to the excess of (i) the net long-term
18 capital gain for the taxable year, over (ii) the amount
19 of the capital gain dividends designated as such in
20 accordance with Section 852(b)(3)(C) of the Internal
21 Revenue Code and any amount designated under Section
22 852(b)(3)(D) of the Internal Revenue Code,
23 attributable to the taxable year (this amendatory Act
24 of 1995 (Public Act 89-89) is declarative of existing
25 law and is not a new enactment);

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

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

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

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

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

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

8 (E-5) For taxable years ending after December 31,
9 1997, an amount equal to any eligible remediation costs
10 that the corporation deducted in computing adjusted
11 gross income and for which the corporation claims a
12 credit under subsection (l) of Section 201;

13 (E-10) For taxable years 2001 and thereafter, an
14 amount equal to the bonus depreciation deduction taken
15 on the taxpayer's federal income tax return for the
16 taxable year under subsection (k) of Section 168 of the
17 Internal Revenue Code;

18 (E-11) If the taxpayer sells, transfers, abandons,
19 or otherwise disposes of property for which the
20 taxpayer was required in any taxable year to make an
21 addition modification under subparagraph (E-10), then
22 an amount equal to the aggregate amount of the
23 deductions taken in all taxable years under
24 subparagraph (T) with respect to that property.

25 If the taxpayer continues to own property through
26 the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for
2 federal income tax purposes and for which the taxpayer
3 was allowed in any taxable year to make a subtraction
4 modification under subparagraph (T), then an amount
5 equal to that subtraction modification.

6 The taxpayer is required to make the addition
7 modification under this subparagraph only once with
8 respect to any one piece of property;

9 (E-12) An amount equal to the amount otherwise
10 allowed as a deduction in computing base income for
11 interest paid, accrued, or incurred, directly or
12 indirectly, (i) for taxable years ending on or after
13 December 31, 2004, to a foreign person who would be a
14 member of the same unitary business group but for the
15 fact the foreign person's business activity outside
16 the United States is 80% or more of the foreign
17 person's total business activity and (ii) for taxable
18 years ending on or after December 31, 2008, to a person
19 who would be a member of the same unitary business
20 group but for the fact that the person is prohibited
21 under Section 1501(a)(27) from being included in the
22 unitary business group because he or she is ordinarily
23 required to apportion business income under different
24 subsections of Section 304. The addition modification
25 required by this subparagraph shall be reduced to the
26 extent that dividends were included in base income of

1 the unitary group for the same taxable year and
2 received by the taxpayer or by a member of the
3 taxpayer's unitary business group (including amounts
4 included in gross income pursuant to Sections 951
5 through 964 of the Internal Revenue Code and amounts
6 included in gross income under Section 78 of the
7 Internal Revenue Code) with respect to the stock of the
8 same person to whom the interest was paid, accrued, or
9 incurred.

10 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the
26 interest expense between the taxpayer and the

1 person did not have as a principal purpose the
2 avoidance of Illinois income tax, and is paid
3 pursuant to a contract or agreement that
4 reflects an arm's-length interest rate and
5 terms; or

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

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

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

1 under Section 404 of this Act;

2 (E-13) An amount equal to the amount of intangible
3 expenses and costs otherwise allowed as a deduction in
4 computing base income, and that were paid, accrued, or
5 incurred, directly or indirectly, (i) for taxable
6 years ending on or after December 31, 2004, to a
7 foreign person who would be a member of the same
8 unitary business group but for the fact that the
9 foreign person's business activity outside the United
10 States is 80% or more of that person's total business
11 activity and (ii) for taxable years ending on or after
12 December 31, 2008, to a person who would be a member of
13 the same unitary business group but for the fact that
14 the person is prohibited under Section 1501(a)(27)
15 from being included in the unitary business group
16 because he or she is ordinarily required to apportion
17 business income under different subsections of Section
18 304. The addition modification required by this
19 subparagraph shall be reduced to the extent that
20 dividends were included in base income of the unitary
21 group for the same taxable year and received by the
22 taxpayer or by a member of the taxpayer's unitary
23 business group (including amounts included in gross
24 income pursuant to Sections 951 through 964 of the
25 Internal Revenue Code and amounts included in gross
26 income under Section 78 of the Internal Revenue Code)

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

21 This paragraph shall not apply to the following:

22 (i) any item of intangible expenses or costs
23 paid, accrued, or incurred, directly or
24 indirectly, from a transaction with a person who is
25 subject in a foreign country or state, other than a
26 state which requires mandatory unitary reporting,

1 to a tax on or measured by net income with respect
2 to such item; or

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

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

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

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

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

10 (E-14) For taxable years ending on or after
11 December 31, 2008, an amount equal to the amount of
12 insurance premium expenses and costs otherwise allowed
13 as a deduction in computing base income, and that were
14 paid, accrued, or incurred, directly or indirectly, to
15 a person who would be a member of the same unitary
16 business group but for the fact that the person is
17 prohibited under Section 1501(a)(27) from being
18 included in the unitary business group because he or
19 she is ordinarily required to apportion business
20 income under different subsections of Section 304. The
21 addition modification required by this subparagraph
22 shall be reduced to the extent that dividends were
23 included in base income of the unitary group for the
24 same taxable year and received by the taxpayer or by a
25 member of the taxpayer's unitary business group
26 (including amounts included in gross income under

1 Sections 951 through 964 of the Internal Revenue Code
2 and amounts included in gross income under Section 78
3 of the Internal Revenue Code) with respect to the stock
4 of the same person to whom the premiums and costs were
5 directly or indirectly paid, incurred, or accrued. The
6 preceding sentence does not apply to the extent that
7 the same dividends caused a reduction to the addition
8 modification required under Section 203(b)(2)(E-12) or
9 Section 203(b)(2)(E-13) of this Act;

10 (E-15) For taxable years beginning after December
11 31, 2008, any deduction for dividends paid by a captive
12 real estate investment trust that is allowed to a real
13 estate investment trust under Section 857(b)(2)(B) of
14 the Internal Revenue Code for dividends paid;

15 (E-16) An amount equal to the credit allowable to
16 the taxpayer under Section 218(a) of this Act,
17 determined without regard to Section 218(c) of this
18 Act;

19 (E-17) For taxable years ending on or after
20 December 31, 2017, an amount equal to the deduction
21 allowed under Section 199 of the Internal Revenue Code
22 for the taxable year;

23 (E-18) for taxable years beginning after December
24 31, 2018, an amount equal to the deduction allowed
25 under Section 250(a)(1)(A) of the Internal Revenue
26 Code for the taxable year.

1 and by deducting from the total so obtained the sum of the
2 following amounts:

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

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

8 (H) In the case of a regulated investment company,
9 an amount equal to the amount of exempt interest
10 dividends as defined in subsection (b)(5) of Section
11 852 of the Internal Revenue Code, paid to shareholders
12 for the taxable year;

13 (I) With the exception of any amounts subtracted
14 under subparagraph (J), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a)(2), and 265(a)(2) and amounts disallowed as
17 interest expense by Section 291(a)(3) of the Internal
18 Revenue Code, and all amounts of expenses allocable to
19 interest and disallowed as deductions by Section
20 265(a)(1) of the Internal Revenue Code; and (ii) for
21 taxable years ending on or after August 13, 1999,
22 Sections 171(a)(2), 265, 280C, 291(a)(3), and
23 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
24 for tax years ending on or after December 31, 2011,
25 amounts disallowed as deductions by Section 45G(e)(3)
26 of the Internal Revenue Code and, for taxable years

1 ending on or after December 31, 2008, any amount
2 included in gross income under Section 87 of the
3 Internal Revenue Code and the policyholders' share of
4 tax-exempt interest of a life insurance company under
5 Section 807(a)(2)(B) of the Internal Revenue Code (in
6 the case of a life insurance company with gross income
7 from a decrease in reserves for the tax year) or
8 Section 807(b)(1)(B) of the Internal Revenue Code (in
9 the case of a life insurance company allowed a
10 deduction for an increase in reserves for the tax
11 year); the provisions of this subparagraph are exempt
12 from the provisions of Section 250;

13 (J) An amount equal to all amounts included in such
14 total which are exempt from taxation by this State
15 either by reason of its statutes or Constitution or by
16 reason of the Constitution, treaties or statutes of the
17 United States; provided that, in the case of any
18 statute of this State that exempts income derived from
19 bonds or other obligations from the tax imposed under
20 this Act, the amount exempted shall be the interest net
21 of bond premium amortization;

22 (K) An amount equal to those dividends included in
23 such total which were paid by a corporation which
24 conducts business operations in a River Edge
25 Redevelopment Zone or zones created under the River
26 Edge Redevelopment Zone Act and conducts substantially

1 all of its operations in a River Edge Redevelopment
2 Zone or zones. This subparagraph (K) is exempt from the
3 provisions of Section 250;

4 (L) An amount equal to those dividends included in
5 such total that were paid by a corporation that
6 conducts business operations in a federally designated
7 Foreign Trade Zone or Sub-Zone and that is designated a
8 High Impact Business located in Illinois; provided
9 that dividends eligible for the deduction provided in
10 subparagraph (K) of paragraph 2 of this subsection
11 shall not be eligible for the deduction provided under
12 this subparagraph (L);

13 (M) For any taxpayer that is a financial
14 organization within the meaning of Section 304(c) of
15 this Act, an amount included in such total as interest
16 income from a loan or loans made by such taxpayer to a
17 borrower, to the extent that such a loan is secured by
18 property which is eligible for the River Edge
19 Redevelopment Zone Investment Credit. To determine the
20 portion of a loan or loans that is secured by property
21 eligible for a Section 201(f) investment credit to the
22 borrower, the entire principal amount of the loan or
23 loans between the taxpayer and the borrower should be
24 divided into the basis of the Section 201(f) investment
25 credit property which secures the loan or loans, using
26 for this purpose the original basis of such property on

1 the date that it was placed in service in the River
2 Edge Redevelopment Zone. The subtraction modification
3 available to the taxpayer in any year under this
4 subsection shall be that portion of the total interest
5 paid by the borrower with respect to such loan
6 attributable to the eligible property as calculated
7 under the previous sentence. This subparagraph (M) is
8 exempt from the provisions of Section 250;

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

1 (2) of this subsection shall be eligible for the
2 deduction provided under this subparagraph (M-1). The
3 subtraction modification available to taxpayers in any
4 year under this subsection shall be that portion of the
5 total interest paid by the borrower with respect to
6 such loan attributable to the eligible property as
7 calculated under the previous sentence;

8 (N) Two times any contribution made during the
9 taxable year to a designated zone organization to the
10 extent that the contribution (i) qualifies as a
11 charitable contribution under subsection (c) of
12 Section 170 of the Internal Revenue Code and (ii) must,
13 by its terms, be used for a project approved by the
14 Department of Commerce and Economic Opportunity under
15 Section 11 of the Illinois Enterprise Zone Act or under
16 Section 10-10 of the River Edge Redevelopment Zone Act.
17 This subparagraph (N) is exempt from the provisions of
18 Section 250;

19 (O) An amount equal to: (i) 85% for taxable years
20 ending on or before December 31, 1992, or, a percentage
21 equal to the percentage allowable under Section
22 243(a)(1) of the Internal Revenue Code of 1986 for
23 taxable years ending after December 31, 1992, of the
24 amount by which dividends included in taxable income
25 and received from a corporation that is not created or
26 organized under the laws of the United States or any

1 state or political subdivision thereof, including, for
2 taxable years ending on or after December 31, 1988,
3 dividends received or deemed received or paid or deemed
4 paid under Sections 951 through 965 of the Internal
5 Revenue Code, exceed the amount of the modification
6 provided under subparagraph (G) of paragraph (2) of
7 this subsection (b) which is related to such dividends,
8 and including, for taxable years ending on or after
9 December 31, 2008, dividends received from a captive
10 real estate investment trust; plus (ii) 100% of the
11 amount by which dividends, included in taxable income
12 and received, including, for taxable years ending on or
13 after December 31, 1988, dividends received or deemed
14 received or paid or deemed paid under Sections 951
15 through 964 of the Internal Revenue Code and including,
16 for taxable years ending on or after December 31, 2008,
17 dividends received from a captive real estate
18 investment trust, from any such corporation specified
19 in clause (i) that would but for the provisions of
20 Section 1504(b)(3) of the Internal Revenue Code be
21 treated as a member of the affiliated group which
22 includes the dividend recipient, exceed the amount of
23 the modification provided under subparagraph (G) of
24 paragraph (2) of this subsection (b) which is related
25 to such dividends. This subparagraph (O) is exempt from
26 the provisions of Section 250 of this Act;

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

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

9 (R) On and after July 20, 1999, in the case of an
10 attorney-in-fact with respect to whom an interinsurer
11 or a reciprocal insurer has made the election under
12 Section 835 of the Internal Revenue Code, 26 U.S.C.
13 835, an amount equal to the excess, if any, of the
14 amounts paid or incurred by that interinsurer or
15 reciprocal insurer in the taxable year to the
16 attorney-in-fact over the deduction allowed to that
17 interinsurer or reciprocal insurer with respect to the
18 attorney-in-fact under Section 835(b) of the Internal
19 Revenue Code for the taxable year; the provisions of
20 this subparagraph are exempt from the provisions of
21 Section 250;

22 (S) For taxable years ending on or after December
23 31, 1997, in the case of a Subchapter S corporation, an
24 amount equal to all amounts of income allocable to a
25 shareholder subject to the Personal Property Tax
26 Replacement Income Tax imposed by subsections (c) and

1 (d) of Section 201 of this Act, including amounts
2 allocable to organizations exempt from federal income
3 tax by reason of Section 501(a) of the Internal Revenue
4 Code. This subparagraph (S) is exempt from the
5 provisions of Section 250;

6 (T) For taxable years 2001 and thereafter, for the
7 taxable year in which the bonus depreciation deduction
8 is taken on the taxpayer's federal income tax return
9 under subsection (k) of Section 168 of the Internal
10 Revenue Code and for each applicable taxable year
11 thereafter, an amount equal to "x", where:

12 (1) "y" equals the amount of the depreciation
13 deduction taken for the taxable year on the
14 taxpayer's federal income tax return on property
15 for which the bonus depreciation deduction was
16 taken in any year under subsection (k) of Section
17 168 of the Internal Revenue Code, but not including
18 the bonus depreciation deduction;

19 (2) for taxable years ending on or before
20 December 31, 2005, "x" equals "y" multiplied by 30
21 and then divided by 70 (or "y" multiplied by
22 0.429); and

23 (3) for taxable years ending after December
24 31, 2005:

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (ii) for property on which a bonus
5 depreciation deduction of 50% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 1.0.

8 The aggregate amount deducted under this
9 subparagraph in all taxable years for any one piece of
10 property may not exceed the amount of the bonus
11 depreciation deduction taken on that property on the
12 taxpayer's federal income tax return under subsection
13 (k) of Section 168 of the Internal Revenue Code. This
14 subparagraph (T) is exempt from the provisions of
15 Section 250;

16 (U) If the taxpayer sells, transfers, abandons, or
17 otherwise disposes of property for which the taxpayer
18 was required in any taxable year to make an addition
19 modification under subparagraph (E-10), then an amount
20 equal to that addition modification.

21 If the taxpayer continues to own property through
22 the last day of the last tax year for which the
23 taxpayer may claim a depreciation deduction for
24 federal income tax purposes and for which the taxpayer
25 was required in any taxable year to make an addition
26 modification under subparagraph (E-10), then an amount

1 equal to that addition modification.

2 The taxpayer is allowed to take the deduction under
3 this subparagraph only once with respect to any one
4 piece of property.

5 This subparagraph (U) is exempt from the
6 provisions of Section 250;

7 (V) The amount of: (i) any interest income (net of
8 the deductions allocable thereto) taken into account
9 for the taxable year with respect to a transaction with
10 a taxpayer that is required to make an addition
11 modification with respect to such transaction under
12 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
13 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
14 the amount of such addition modification, (ii) any
15 income from intangible property (net of the deductions
16 allocable thereto) taken into account for the taxable
17 year with respect to a transaction with a taxpayer that
18 is required to make an addition modification with
19 respect to such transaction under Section
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
21 203(d)(2)(D-8), but not to exceed the amount of such
22 addition modification, and (iii) any insurance premium
23 income (net of deductions allocable thereto) taken
24 into account for the taxable year with respect to a
25 transaction with a taxpayer that is required to make an
26 addition modification with respect to such transaction

1 under Section 203(a)(2)(D-19), Section
2 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
3 203(d)(2)(D-9), but not to exceed the amount of that
4 addition modification. This subparagraph (V) is exempt
5 from the provisions of Section 250;

6 (W) An amount equal to the interest income taken
7 into account for the taxable year (net of the
8 deductions allocable thereto) with respect to
9 transactions with (i) a foreign person who would be a
10 member of the taxpayer's unitary business group but for
11 the fact that the foreign person's business activity
12 outside the United States is 80% or more of that
13 person's total business activity and (ii) for taxable
14 years ending on or after December 31, 2008, to a person
15 who would be a member of the same unitary business
16 group but for the fact that the person is prohibited
17 under Section 1501(a)(27) from being included in the
18 unitary business group because he or she is ordinarily
19 required to apportion business income under different
20 subsections of Section 304, but not to exceed the
21 addition modification required to be made for the same
22 taxable year under Section 203(b)(2)(E-12) for
23 interest paid, accrued, or incurred, directly or
24 indirectly, to the same person. This subparagraph (W)
25 is exempt from the provisions of Section 250;

26 (X) An amount equal to the income from intangible

1 property taken into account for the taxable year (net
2 of the deductions allocable thereto) with respect to
3 transactions with (i) a foreign person who would be a
4 member of the taxpayer's unitary business group but for
5 the fact that the foreign person's business activity
6 outside the United States is 80% or more of that
7 person's total business activity and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304, but not to exceed the
15 addition modification required to be made for the same
16 taxable year under Section 203(b)(2)(E-13) for
17 intangible expenses and costs paid, accrued, or
18 incurred, directly or indirectly, to the same foreign
19 person. This subparagraph (X) is exempt from the
20 provisions of Section 250;

21 (Y) For taxable years ending on or after December
22 31, 2011, in the case of a taxpayer who was required to
23 add back any insurance premiums under Section
24 203(b)(2)(E-14), such taxpayer may elect to subtract
25 that part of a reimbursement received from the
26 insurance company equal to the amount of the expense or

1 loss (including expenses incurred by the insurance
2 company) that would have been taken into account as a
3 deduction for federal income tax purposes if the
4 expense or loss had been uninsured. If a taxpayer makes
5 the election provided for by this subparagraph (Y), the
6 insurer to which the premiums were paid must add back
7 to income the amount subtracted by the taxpayer
8 pursuant to this subparagraph (Y). This subparagraph
9 (Y) is exempt from the provisions of Section 250; and

10 (Z) The difference between the nondeductible
11 controlled foreign corporation dividends under Section
12 965(e) (3) of the Internal Revenue Code over the taxable
13 income of the taxpayer, computed without regard to
14 Section 965(e) (2) (A) of the Internal Revenue Code, and
15 without regard to any net operating loss deduction.
16 This subparagraph (Z) is exempt from the provisions of
17 Section 250.

18 (3) Special rule. For purposes of paragraph (2) (A),
19 "gross income" in the case of a life insurance company, for
20 tax years ending on and after December 31, 1994, and prior
21 to December 31, 2011, shall mean the gross investment
22 income for the taxable year and, for tax years ending on or
23 after December 31, 2011, shall mean all amounts included in
24 life insurance gross income under Section 803(a) (3) of the
25 Internal Revenue Code.

1 (c) Trusts and estates.

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

5 (2) Modifications. Subject to the provisions of
6 paragraph (3), the taxable income referred to in paragraph
7 (1) shall be modified by adding thereto the sum of the
8 following amounts:

9 (A) An amount equal to all amounts paid or accrued
10 to the taxpayer as interest or dividends during the
11 taxable year to the extent excluded from gross income
12 in the computation of taxable income;

13 (B) In the case of (i) an estate, \$600; (ii) a
14 trust which, under its governing instrument, is
15 required to distribute all of its income currently,
16 \$300; and (iii) any other trust, \$100, but in each such
17 case, only to the extent such amount was deducted in
18 the computation of taxable income;

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

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

26 (E) For taxable years in which a net operating loss

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

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

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

23 For taxable years in which there is a net operating
24 loss carryback or carryforward from more than one other
25 taxable year ending prior to December 31, 1986, the
26 addition modification provided in this subparagraph

1 (E) shall be the sum of the amounts computed
2 independently under the preceding provisions of this
3 subparagraph (E) for each such taxable year;

4 (F) For taxable years ending on or after January 1,
5 1989, an amount equal to the tax deducted pursuant to
6 Section 164 of the Internal Revenue Code if the trust
7 or estate is claiming the same tax for purposes of the
8 Illinois foreign tax credit under Section 601 of this
9 Act;

10 (G) An amount equal to the amount of the capital
11 gain deduction allowable under the Internal Revenue
12 Code, to the extent deducted from gross income in the
13 computation of taxable income;

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

19 (G-10) For taxable years 2001 and thereafter, an
20 amount equal to the bonus depreciation deduction taken
21 on the taxpayer's federal income tax return for the
22 taxable year under subsection (k) of Section 168 of the
23 Internal Revenue Code; and

24 (G-11) If the taxpayer sells, transfers, abandons,
25 or otherwise disposes of property for which the
26 taxpayer was required in any taxable year to make an

1 addition modification under subparagraph (G-10), then
2 an amount equal to the aggregate amount of the
3 deductions taken in all taxable years under
4 subparagraph (R) with respect to that property.

5 If the taxpayer continues to own property through
6 the last day of the last tax year for which the
7 taxpayer may claim a depreciation deduction for
8 federal income tax purposes and for which the taxpayer
9 was allowed in any taxable year to make a subtraction
10 modification under subparagraph (R), then an amount
11 equal to that subtraction modification.

12 The taxpayer is required to make the addition
13 modification under this subparagraph only once with
14 respect to any one piece of property;

15 (G-12) An amount equal to the amount otherwise
16 allowed as a deduction in computing base income for
17 interest paid, accrued, or incurred, directly or
18 indirectly, (i) for taxable years ending on or after
19 December 31, 2004, to a foreign person who would be a
20 member of the same unitary business group but for the
21 fact that the foreign person's business activity
22 outside the United States is 80% or more of the foreign
23 person's total business activity and (ii) for taxable
24 years ending on or after December 31, 2008, to a person
25 who would be a member of the same unitary business
26 group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the
2 unitary business group because he or she is ordinarily
3 required to apportion business income under different
4 subsections of Section 304. The addition modification
5 required by this subparagraph shall be reduced to the
6 extent that dividends were included in base income of
7 the unitary group for the same taxable year and
8 received by the taxpayer or by a member of the
9 taxpayer's unitary business group (including amounts
10 included in gross income pursuant to Sections 951
11 through 964 of the Internal Revenue Code and amounts
12 included in gross income under Section 78 of the
13 Internal Revenue Code) with respect to the stock of the
14 same person to whom the interest was paid, accrued, or
15 incurred.

16 This paragraph shall not apply to the following:

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

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

1 following:

2 (a) the person, during the same taxable
3 year, paid, accrued, or incurred, the interest
4 to a person that is not a related member, and

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

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

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

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment

1 otherwise allowed under Section 404 of this Act for
2 any tax year beginning after the effective date of
3 this amendment provided such adjustment is made
4 pursuant to regulation adopted by the Department
5 and such regulations provide methods and standards
6 by which the Department will utilize its authority
7 under Section 404 of this Act;

8 (G-13) An amount equal to the amount of intangible
9 expenses and costs otherwise allowed as a deduction in
10 computing base income, and that were paid, accrued, or
11 incurred, directly or indirectly, (i) for taxable
12 years ending on or after December 31, 2004, to a
13 foreign person who would be a member of the same
14 unitary business group but for the fact that the
15 foreign person's business activity outside the United
16 States is 80% or more of that person's total business
17 activity and (ii) for taxable years ending on or after
18 December 31, 2008, to a person who would be a member of
19 the same unitary business group but for the fact that
20 the person is prohibited under Section 1501(a)(27)
21 from being included in the unitary business group
22 because he or she is ordinarily required to apportion
23 business income under different subsections of Section
24 304. The addition modification required by this
25 subparagraph shall be reduced to the extent that
26 dividends were included in base income of the unitary

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

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or

1 indirectly, from a transaction with a person if the
2 taxpayer establishes by clear and convincing
3 evidence, that the adjustments are unreasonable;
4 or if the taxpayer and the Director agree in
5 writing to the application or use of an alternative
6 method of apportionment under Section 304(f);

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

16 (G-14) For taxable years ending on or after
17 December 31, 2008, an amount equal to the amount of
18 insurance premium expenses and costs otherwise allowed
19 as a deduction in computing base income, and that were
20 paid, accrued, or incurred, directly or indirectly, to
21 a person who would be a member of the same unitary
22 business group but for the fact that the person is
23 prohibited under Section 1501(a)(27) from being
24 included in the unitary business group because he or
25 she is ordinarily required to apportion business
26 income under different subsections of Section 304. The

1 addition modification required by this subparagraph
2 shall be reduced to the extent that dividends were
3 included in base income of the unitary group for the
4 same taxable year and received by the taxpayer or by a
5 member of the taxpayer's unitary business group
6 (including amounts included in gross income under
7 Sections 951 through 964 of the Internal Revenue Code
8 and amounts included in gross income under Section 78
9 of the Internal Revenue Code) with respect to the stock
10 of the same person to whom the premiums and costs were
11 directly or indirectly paid, incurred, or accrued. The
12 preceding sentence does not apply to the extent that
13 the same dividends caused a reduction to the addition
14 modification required under Section 203(c)(2)(G-12) or
15 Section 203(c)(2)(G-13) of this Act;

16 (G-15) An amount equal to the credit allowable to
17 the taxpayer under Section 218(a) of this Act,
18 determined without regard to Section 218(c) of this
19 Act;

20 (G-16) For taxable years ending on or after
21 December 31, 2017, an amount equal to the deduction
22 allowed under Section 199 of the Internal Revenue Code
23 for the taxable year;

24 and by deducting from the total so obtained the sum of the
25 following amounts:

26 (H) An amount equal to all amounts included in such

1 total pursuant to the provisions of Sections 402(a),
2 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
3 Internal Revenue Code or included in such total as
4 distributions under the provisions of any retirement
5 or disability plan for employees of any governmental
6 agency or unit, or retirement payments to retired
7 partners, which payments are excluded in computing net
8 earnings from self employment by Section 1402 of the
9 Internal Revenue Code and regulations adopted pursuant
10 thereto;

11 (I) The valuation limitation amount;

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

15 (K) An amount equal to all amounts included in
16 taxable income as modified by subparagraphs (A), (B),
17 (C), (D), (E), (F) and (G) which are exempt from
18 taxation by this State either by reason of its statutes
19 or Constitution or by reason of the Constitution,
20 treaties or statutes of the United States; provided
21 that, in the case of any statute of this State that
22 exempts income derived from bonds or other obligations
23 from the tax imposed under this Act, the amount
24 exempted shall be the interest net of bond premium
25 amortization;

26 (L) With the exception of any amounts subtracted

1 under subparagraph (K), an amount equal to the sum of
2 all amounts disallowed as deductions by (i) Sections
3 171(a)(2) and 265(a)(2) of the Internal Revenue Code,
4 and all amounts of expenses allocable to interest and
5 disallowed as deductions by Section 265(a)(1) ~~265(1)~~
6 of the Internal Revenue Code; and (ii) for taxable
7 years ending on or after August 13, 1999, Sections
8 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
9 Internal Revenue Code, plus, (iii) for taxable years
10 ending on or after December 31, 2011, Section 45G(e)(3)
11 of the Internal Revenue Code and, for taxable years
12 ending on or after December 31, 2008, any amount
13 included in gross income under Section 87 of the
14 Internal Revenue Code; the provisions of this
15 subparagraph are exempt from the provisions of Section
16 250;

17 (M) An amount equal to those dividends included in
18 such total which were paid by a corporation which
19 conducts business operations in a River Edge
20 Redevelopment Zone or zones created under the River
21 Edge Redevelopment Zone Act and conducts substantially
22 all of its operations in a River Edge Redevelopment
23 Zone or zones. This subparagraph (M) is exempt from the
24 provisions of Section 250;

25 (N) An amount equal to any contribution made to a
26 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

11 (P) An amount equal to the amount of the deduction
12 used to compute the federal income tax credit for
13 restoration of substantial amounts held under claim of
14 right for the taxable year pursuant to Section 1341 of
15 the Internal Revenue Code;

16 (Q) For taxable year 1999 and thereafter, an amount
17 equal to the amount of any (i) distributions, to the
18 extent includible in gross income for federal income
19 tax purposes, made to the taxpayer because of his or
20 her status as a victim of persecution for racial or
21 religious reasons by Nazi Germany or any other Axis
22 regime or as an heir of the victim and (ii) items of
23 income, to the extent includible in gross income for
24 federal income tax purposes, attributable to, derived
25 from or in any way related to assets stolen from,
26 hidden from, or otherwise lost to a victim of

1 persecution for racial or religious reasons by Nazi
2 Germany or any other Axis regime immediately prior to,
3 during, and immediately after World War II, including,
4 but not limited to, interest on the proceeds receivable
5 as insurance under policies issued to a victim of
6 persecution for racial or religious reasons by Nazi
7 Germany or any other Axis regime by European insurance
8 companies immediately prior to and during World War II;
9 provided, however, this subtraction from federal
10 adjusted gross income does not apply to assets acquired
11 with such assets or with the proceeds from the sale of
12 such assets; provided, further, this paragraph shall
13 only apply to a taxpayer who was the first recipient of
14 such assets after their recovery and who is a victim of
15 persecution for racial or religious reasons by Nazi
16 Germany or any other Axis regime or as an heir of the
17 victim. The amount of and the eligibility for any
18 public assistance, benefit, or similar entitlement is
19 not affected by the inclusion of items (i) and (ii) of
20 this paragraph in gross income for federal income tax
21 purposes. This paragraph is exempt from the provisions
22 of Section 250;

23 (R) For taxable years 2001 and thereafter, for the
24 taxable year in which the bonus depreciation deduction
25 is taken on the taxpayer's federal income tax return
26 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year
2 thereafter, an amount equal to "x", where:

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

10 (2) for taxable years ending on or before
11 December 31, 2005, "x" equals "y" multiplied by 30
12 and then divided by 70 (or "y" multiplied by
13 0.429); and

14 (3) for taxable years ending after December
15 31, 2005:

16 (i) for property on which a bonus
17 depreciation deduction of 30% of the adjusted
18 basis was taken, "x" equals "y" multiplied by
19 30 and then divided by 70 (or "y" multiplied by
20 0.429); and

21 (ii) for property on which a bonus
22 depreciation deduction of 50% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 1.0.

25 The aggregate amount deducted under this
26 subparagraph in all taxable years for any one piece of

1 property may not exceed the amount of the bonus
2 depreciation deduction taken on that property on the
3 taxpayer's federal income tax return under subsection
4 (k) of Section 168 of the Internal Revenue Code. This
5 subparagraph (R) is exempt from the provisions of
6 Section 250;

7 (S) If the taxpayer sells, transfers, abandons, or
8 otherwise disposes of property for which the taxpayer
9 was required in any taxable year to make an addition
10 modification under subparagraph (G-10), then an amount
11 equal to that addition modification.

12 If the taxpayer continues to own property through
13 the last day of the last tax year for which the
14 taxpayer may claim a depreciation deduction for
15 federal income tax purposes and for which the taxpayer
16 was required in any taxable year to make an addition
17 modification under subparagraph (G-10), then an amount
18 equal to that addition modification.

19 The taxpayer is allowed to take the deduction under
20 this subparagraph only once with respect to any one
21 piece of property.

22 This subparagraph (S) is exempt from the
23 provisions of Section 250;

24 (T) The amount of (i) any interest income (net of
25 the deductions allocable thereto) taken into account
26 for the taxable year with respect to a transaction with

1 a taxpayer that is required to make an addition
2 modification with respect to such transaction under
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
5 the amount of such addition modification and (ii) any
6 income from intangible property (net of the deductions
7 allocable thereto) taken into account for the taxable
8 year with respect to a transaction with a taxpayer that
9 is required to make an addition modification with
10 respect to such transaction under Section
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
12 203(d)(2)(D-8), but not to exceed the amount of such
13 addition modification. This subparagraph (T) is exempt
14 from the provisions of Section 250;

15 (U) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with (i) a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(c)(2)(G-12) for
6 interest paid, accrued, or incurred, directly or
7 indirectly, to the same person. This subparagraph (U)
8 is exempt from the provisions of Section 250;

9 (V) An amount equal to the income from intangible
10 property taken into account for the taxable year (net
11 of the deductions allocable thereto) with respect to
12 transactions with (i) a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304, but not to exceed the
24 addition modification required to be made for the same
25 taxable year under Section 203(c)(2)(G-13) for
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign
2 person. This subparagraph (V) is exempt from the
3 provisions of Section 250;

4 (W) in the case of an estate, an amount equal to
5 all amounts included in such total pursuant to the
6 provisions of Section 111 of the Internal Revenue Code
7 as a recovery of items previously deducted by the
8 decedent from adjusted gross income in the computation
9 of taxable income. This subparagraph (W) is exempt from
10 Section 250;

11 (X) an amount equal to the refund included in such
12 total of any tax deducted for federal income tax
13 purposes, to the extent that deduction was added back
14 under subparagraph (F). This subparagraph (X) is
15 exempt from the provisions of Section 250; ~~and~~

16 (Y) For taxable years ending on or after December
17 31, 2011, in the case of a taxpayer who was required to
18 add back any insurance premiums under Section
19 203(c)(2)(G-14), such taxpayer may elect to subtract
20 that part of a reimbursement received from the
21 insurance company equal to the amount of the expense or
22 loss (including expenses incurred by the insurance
23 company) that would have been taken into account as a
24 deduction for federal income tax purposes if the
25 expense or loss had been uninsured. If a taxpayer makes
26 the election provided for by this subparagraph (Y), the

1 insurer to which the premiums were paid must add back
2 to income the amount subtracted by the taxpayer
3 pursuant to this subparagraph (Y). This subparagraph
4 (Y) is exempt from the provisions of Section 250; and ~~and~~.

5 (Z) For taxable years beginning after December 31,
6 2018 and before January 1, 2026, the amount of excess
7 business loss of the taxpayer disallowed as a deduction
8 by Section 461(1)(1)(B) of the Internal Revenue Code.

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

16 (d) Partnerships.

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

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

23 (A) An amount equal to all amounts paid or accrued
24 to the taxpayer as interest or dividends during the
25 taxable year to the extent excluded from gross income

1 in the computation of taxable income;

2 (B) An amount equal to the amount of tax imposed by
3 this Act to the extent deducted from gross income for
4 the taxable year;

5 (C) The amount of deductions allowed to the
6 partnership pursuant to Section 707 (c) of the Internal
7 Revenue Code in calculating its taxable income;

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

12 (D-5) For taxable years 2001 and thereafter, an
13 amount equal to the bonus depreciation deduction taken
14 on the taxpayer's federal income tax return for the
15 taxable year under subsection (k) of Section 168 of the
16 Internal Revenue Code;

17 (D-6) If the taxpayer sells, transfers, abandons,
18 or otherwise disposes of property for which the
19 taxpayer was required in any taxable year to make an
20 addition modification under subparagraph (D-5), then
21 an amount equal to the aggregate amount of the
22 deductions taken in all taxable years under
23 subparagraph (D) with respect to that property.

24 If the taxpayer continues to own property through
25 the last day of the last tax year for which the
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer
2 was allowed in any taxable year to make a subtraction
3 modification under subparagraph (O), then an amount
4 equal to that subtraction modification.

5 The taxpayer is required to make the addition
6 modification under this subparagraph only once with
7 respect to any one piece of property;

8 (D-7) An amount equal to the amount otherwise
9 allowed as a deduction in computing base income for
10 interest paid, accrued, or incurred, directly or
11 indirectly, (i) for taxable years ending on or after
12 December 31, 2004, to a foreign person who would be a
13 member of the same unitary business group but for the
14 fact the foreign person's business activity outside
15 the United States is 80% or more of the foreign
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304. The addition modification
24 required by this subparagraph shall be reduced to the
25 extent that dividends were included in base income of
26 the unitary group for the same taxable year and

1 received by the taxpayer or by a member of the
2 taxpayer's unitary business group (including amounts
3 included in gross income pursuant to Sections 951
4 through 964 of the Internal Revenue Code and amounts
5 included in gross income under Section 78 of the
6 Internal Revenue Code) with respect to the stock of the
7 same person to whom the interest was paid, accrued, or
8 incurred.

9 This paragraph shall not apply to the following:

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

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

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

24 (b) the transaction giving rise to the
25 interest expense between the taxpayer and the
26 person did not have as a principal purpose the

1 avoidance of Illinois income tax, and is paid
2 pursuant to a contract or agreement that
3 reflects an arm's-length interest rate and
4 terms; or

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

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

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

1 (D-8) An amount equal to the amount of intangible
2 expenses and costs otherwise allowed as a deduction in
3 computing base income, and that were paid, accrued, or
4 incurred, directly or indirectly, (i) for taxable
5 years ending on or after December 31, 2004, to a
6 foreign person who would be a member of the same
7 unitary business group but for the fact that the
8 foreign person's business activity outside the United
9 States is 80% or more of that person's total business
10 activity and (ii) for taxable years ending on or after
11 December 31, 2008, to a person who would be a member of
12 the same unitary business group but for the fact that
13 the person is prohibited under Section 1501(a)(27)
14 from being included in the unitary business group
15 because he or she is ordinarily required to apportion
16 business income under different subsections of Section
17 304. The addition modification required by this
18 subparagraph shall be reduced to the extent that
19 dividends were included in base income of the unitary
20 group for the same taxable year and received by the
21 taxpayer or by a member of the taxpayer's unitary
22 business group (including amounts included in gross
23 income pursuant to Sections 951 through 964 of the
24 Internal Revenue Code and amounts included in gross
25 income under Section 78 of the Internal Revenue Code)
26 with respect to the stock of the same person to whom

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

20 This paragraph shall not apply to the following:

21 (i) any item of intangible expenses or costs
22 paid, accrued, or incurred, directly or
23 indirectly, from a transaction with a person who is
24 subject in a foreign country or state, other than a
25 state which requires mandatory unitary reporting,
26 to a tax on or measured by net income with respect

1 to such item; or

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

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

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

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

26 Nothing in this subsection shall preclude the

1 Director from making any other adjustment
2 otherwise allowed under Section 404 of this Act for
3 any tax year beginning after the effective date of
4 this amendment provided such adjustment is made
5 pursuant to regulation adopted by the Department
6 and such regulations provide methods and standards
7 by which the Department will utilize its authority
8 under Section 404 of this Act;

9 (D-9) For taxable years ending on or after December
10 31, 2008, an amount equal to the amount of insurance
11 premium expenses and costs otherwise allowed as a
12 deduction in computing base income, and that were paid,
13 accrued, or incurred, directly or indirectly, to a
14 person who would be a member of the same unitary
15 business group but for the fact that the person is
16 prohibited under Section 1501(a)(27) from being
17 included in the unitary business group because he or
18 she is ordinarily required to apportion business
19 income under different subsections of Section 304. The
20 addition modification required by this subparagraph
21 shall be reduced to the extent that dividends were
22 included in base income of the unitary group for the
23 same taxable year and received by the taxpayer or by a
24 member of the taxpayer's unitary business group
25 (including amounts included in gross income under
26 Sections 951 through 964 of the Internal Revenue Code

1 and amounts included in gross income under Section 78
2 of the Internal Revenue Code) with respect to the stock
3 of the same person to whom the premiums and costs were
4 directly or indirectly paid, incurred, or accrued. The
5 preceding sentence does not apply to the extent that
6 the same dividends caused a reduction to the addition
7 modification required under Section 203(d)(2)(D-7) or
8 Section 203(d)(2)(D-8) of this Act;

9 (D-10) An amount equal to the credit allowable to
10 the taxpayer under Section 218(a) of this Act,
11 determined without regard to Section 218(c) of this
12 Act;

13 (D-11) For taxable years ending on or after
14 December 31, 2017, an amount equal to the deduction
15 allowed under Section 199 of the Internal Revenue Code
16 for the taxable year;

17 and by deducting from the total so obtained the following
18 amounts:

19 (E) The valuation limitation amount;

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

23 (G) An amount equal to all amounts included in
24 taxable income as modified by subparagraphs (A), (B),
25 (C) and (D) which are exempt from taxation by this
26 State either by reason of its statutes or Constitution

1 or by reason of the Constitution, treaties or statutes
2 of the United States; provided that, in the case of any
3 statute of this State that exempts income derived from
4 bonds or other obligations from the tax imposed under
5 this Act, the amount exempted shall be the interest net
6 of bond premium amortization;

7 (H) Any income of the partnership which
8 constitutes personal service income as defined in
9 Section 1348(b)(1) of the Internal Revenue Code (as in
10 effect December 31, 1981) or a reasonable allowance for
11 compensation paid or accrued for services rendered by
12 partners to the partnership, whichever is greater;
13 this subparagraph (H) is exempt from the provisions of
14 Section 250;

15 (I) An amount equal to all amounts of income
16 distributable to an entity subject to the Personal
17 Property Tax Replacement Income Tax imposed by
18 subsections (c) and (d) of Section 201 of this Act
19 including amounts distributable to organizations
20 exempt from federal income tax by reason of Section
21 501(a) of the Internal Revenue Code; this subparagraph
22 (I) is exempt from the provisions of Section 250;

23 (J) With the exception of any amounts subtracted
24 under subparagraph (G), an amount equal to the sum of
25 all amounts disallowed as deductions by (i) Sections
26 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal

1 Revenue Code, and all amounts of expenses allocable to
2 interest and disallowed as deductions by Section
3 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)
4 for taxable years ending on or after August 13, 1999,
5 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
6 the Internal Revenue Code, plus, (iii) for taxable
7 years ending on or after December 31, 2011, Section
8 45G(e)(3) of the Internal Revenue Code and, for taxable
9 years ending on or after December 31, 2008, any amount
10 included in gross income under Section 87 of the
11 Internal Revenue Code; the provisions of this
12 subparagraph are exempt from the provisions of Section
13 250;

14 (K) An amount equal to those dividends included in
15 such total which were paid by a corporation which
16 conducts business operations in a River Edge
17 Redevelopment Zone or zones created under the River
18 Edge Redevelopment Zone Act and conducts substantially
19 all of its operations from a River Edge Redevelopment
20 Zone or zones. This subparagraph (K) is exempt from the
21 provisions of Section 250;

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

25 (M) An amount equal to those dividends included in
26 such total that were paid by a corporation that

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

8 (N) An amount equal to the amount of the deduction
9 used to compute the federal income tax credit for
10 restoration of substantial amounts held under claim of
11 right for the taxable year pursuant to Section 1341 of
12 the Internal Revenue Code;

13 (O) For taxable years 2001 and thereafter, for the
14 taxable year in which the bonus depreciation deduction
15 is taken on the taxpayer's federal income tax return
16 under subsection (k) of Section 168 of the Internal
17 Revenue Code and for each applicable taxable year
18 thereafter, an amount equal to "x", where:

19 (1) "y" equals the amount of the depreciation
20 deduction taken for the taxable year on the
21 taxpayer's federal income tax return on property
22 for which the bonus depreciation deduction was
23 taken in any year under subsection (k) of Section
24 168 of the Internal Revenue Code, but not including
25 the bonus depreciation deduction;

26 (2) for taxable years ending on or before

1 December 31, 2005, "x" equals "y" multiplied by 30
2 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (3) for taxable years ending after December
5 31, 2005:

6 (i) for property on which a bonus
7 depreciation deduction of 30% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 30 and then divided by 70 (or "y" multiplied by
10 0.429); and

11 (ii) for property on which a bonus
12 depreciation deduction of 50% of the adjusted
13 basis was taken, "x" equals "y" multiplied by
14 1.0.

15 The aggregate amount deducted under this
16 subparagraph in all taxable years for any one piece of
17 property may not exceed the amount of the bonus
18 depreciation deduction taken on that property on the
19 taxpayer's federal income tax return under subsection
20 (k) of Section 168 of the Internal Revenue Code. This
21 subparagraph (O) is exempt from the provisions of
22 Section 250;

23 (P) If the taxpayer sells, transfers, abandons, or
24 otherwise disposes of property for which the taxpayer
25 was required in any taxable year to make an addition
26 modification under subparagraph (D-5), then an amount

1 equal to that addition modification.

2 If the taxpayer continues to own property through
3 the last day of the last tax year for which the
4 taxpayer may claim a depreciation deduction for
5 federal income tax purposes and for which the taxpayer
6 was required in any taxable year to make an addition
7 modification under subparagraph (D-5), then an amount
8 equal to that addition modification.

9 The taxpayer is allowed to take the deduction under
10 this subparagraph only once with respect to any one
11 piece of property.

12 This subparagraph (P) is exempt from the
13 provisions of Section 250;

14 (Q) The amount of (i) any interest income (net of
15 the deductions allocable thereto) taken into account
16 for the taxable year with respect to a transaction with
17 a taxpayer that is required to make an addition
18 modification with respect to such transaction under
19 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
20 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
21 the amount of such addition modification and (ii) any
22 income from intangible property (net of the deductions
23 allocable thereto) taken into account for the taxable
24 year with respect to a transaction with a taxpayer that
25 is required to make an addition modification with
26 respect to such transaction under Section

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
2 203(d)(2)(D-8), but not to exceed the amount of such
3 addition modification. This subparagraph (Q) is exempt
4 from Section 250;

5 (R) An amount equal to the interest income taken
6 into account for the taxable year (net of the
7 deductions allocable thereto) with respect to
8 transactions with (i) a foreign person who would be a
9 member of the taxpayer's unitary business group but for
10 the fact that the foreign person's business activity
11 outside the United States is 80% or more of that
12 person's total business activity and (ii) for taxable
13 years ending on or after December 31, 2008, to a person
14 who would be a member of the same unitary business
15 group but for the fact that the person is prohibited
16 under Section 1501(a)(27) from being included in the
17 unitary business group because he or she is ordinarily
18 required to apportion business income under different
19 subsections of Section 304, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(d)(2)(D-7) for interest
22 paid, accrued, or incurred, directly or indirectly, to
23 the same person. This subparagraph (R) is exempt from
24 Section 250;

25 (S) An amount equal to the income from intangible
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to
2 transactions with (i) a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity and (ii) for taxable
7 years ending on or after December 31, 2008, to a person
8 who would be a member of the same unitary business
9 group but for the fact that the person is prohibited
10 under Section 1501(a)(27) from being included in the
11 unitary business group because he or she is ordinarily
12 required to apportion business income under different
13 subsections of Section 304, but not to exceed the
14 addition modification required to be made for the same
15 taxable year under Section 203(d)(2)(D-8) for
16 intangible expenses and costs paid, accrued, or
17 incurred, directly or indirectly, to the same person.
18 This subparagraph (S) is exempt from Section 250; and

19 (T) For taxable years ending on or after December
20 31, 2011, in the case of a taxpayer who was required to
21 add back any insurance premiums under Section
22 203(d)(2)(D-9), such taxpayer may elect to subtract
23 that part of a reimbursement received from the
24 insurance company equal to the amount of the expense or
25 loss (including expenses incurred by the insurance
26 company) that would have been taken into account as a

1 deduction for federal income tax purposes if the
2 expense or loss had been uninsured. If a taxpayer makes
3 the election provided for by this subparagraph (T), the
4 insurer to which the premiums were paid must add back
5 to income the amount subtracted by the taxpayer
6 pursuant to this subparagraph (T). This subparagraph
7 (T) is exempt from the provisions of Section 250.

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

9 (1) In general. Subject to the provisions of paragraph
10 (2) and subsection (b) (3), for purposes of this Section and
11 Section 803(e), a taxpayer's gross income, adjusted gross
12 income, or taxable income for the taxable year shall mean
13 the amount of gross income, adjusted gross income or
14 taxable income properly reportable for federal income tax
15 purposes for the taxable year under the provisions of the
16 Internal Revenue Code. Taxable income may be less than
17 zero. However, for taxable years ending on or after
18 December 31, 1986, net operating loss carryforwards from
19 taxable years ending prior to December 31, 1986, may not
20 exceed the sum of federal taxable income for the taxable
21 year before net operating loss deduction, plus the excess
22 of addition modifications over subtraction modifications
23 for the taxable year. For taxable years ending prior to
24 December 31, 1986, taxable income may never be an amount in
25 excess of the net operating loss for the taxable year as

1 defined in subsections (c) and (d) of Section 172 of the
2 Internal Revenue Code, provided that when taxable income of
3 a corporation (other than a Subchapter S corporation),
4 trust, or estate is less than zero and addition
5 modifications, other than those provided by subparagraph
6 (E) of paragraph (2) of subsection (b) for corporations or
7 subparagraph (E) of paragraph (2) of subsection (c) for
8 trusts and estates, exceed subtraction modifications, an
9 addition modification must be made under those
10 subparagraphs for any other taxable year to which the
11 taxable income less than zero (net operating loss) is
12 applied under Section 172 of the Internal Revenue Code or
13 under subparagraph (E) of paragraph (2) of this subsection
14 (e) applied in conjunction with Section 172 of the Internal
15 Revenue Code.

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

19 (A) Certain life insurance companies. In the case
20 of a life insurance company subject to the tax imposed
21 by Section 801 of the Internal Revenue Code, life
22 insurance company taxable income, plus the amount of
23 distribution from pre-1984 policyholder surplus
24 accounts as calculated under Section 815a of the
25 Internal Revenue Code;

26 (B) Certain other insurance companies. In the case

1 of mutual insurance companies subject to the tax
2 imposed by Section 831 of the Internal Revenue Code,
3 insurance company taxable income;

4 (C) Regulated investment companies. In the case of
5 a regulated investment company subject to the tax
6 imposed by Section 852 of the Internal Revenue Code,
7 investment company taxable income;

8 (D) Real estate investment trusts. In the case of a
9 real estate investment trust subject to the tax imposed
10 by Section 857 of the Internal Revenue Code, real
11 estate investment trust taxable income;

12 (E) Consolidated corporations. In the case of a
13 corporation which is a member of an affiliated group of
14 corporations filing a consolidated income tax return
15 for the taxable year for federal income tax purposes,
16 taxable income determined as if such corporation had
17 filed a separate return for federal income tax purposes
18 for the taxable year and each preceding taxable year
19 for which it was a member of an affiliated group. For
20 purposes of this subparagraph, the taxpayer's separate
21 taxable income shall be determined as if the election
22 provided by Section 243(b)(2) of the Internal Revenue
23 Code had been in effect for all such years;

24 (F) Cooperatives. In the case of a cooperative
25 corporation or association, the taxable income of such
26 organization determined in accordance with the

1 provisions of Section 1381 through 1388 of the Internal
2 Revenue Code, but without regard to the prohibition
3 against offsetting losses from patronage activities
4 against income from nonpatronage activities; except
5 that a cooperative corporation or association may make
6 an election to follow its federal income tax treatment
7 of patronage losses and nonpatronage losses. In the
8 event such election is made, such losses shall be
9 computed and carried over in a manner consistent with
10 subsection (a) of Section 207 of this Act and
11 apportioned by the apportionment factor reported by
12 the cooperative on its Illinois income tax return filed
13 for the taxable year in which the losses are incurred.
14 The election shall be effective for all taxable years
15 with original returns due on or after the date of the
16 election. In addition, the cooperative may file an
17 amended return or returns, as allowed under this Act,
18 to provide that the election shall be effective for
19 losses incurred or carried forward for taxable years
20 occurring prior to the date of the election. Once made,
21 the election may only be revoked upon approval of the
22 Director. The Department shall adopt rules setting
23 forth requirements for documenting the elections and
24 any resulting Illinois net loss and the standards to be
25 used by the Director in evaluating requests to revoke
26 elections. Public Act 96-932 is declaratory of

1 existing law;

2 (G) Subchapter S corporations. In the case of: (i)
3 a Subchapter S corporation for which there is in effect
4 an election for the taxable year under Section 1362 of
5 the Internal Revenue Code, the taxable income of such
6 corporation determined in accordance with Section
7 1363(b) of the Internal Revenue Code, except that
8 taxable income shall take into account those items
9 which are required by Section 1363(b)(1) of the
10 Internal Revenue Code to be separately stated; and (ii)
11 a Subchapter S corporation for which there is in effect
12 a federal election to opt out of the provisions of the
13 Subchapter S Revision Act of 1982 and have applied
14 instead the prior federal Subchapter S rules as in
15 effect on July 1, 1982, the taxable income of such
16 corporation determined in accordance with the federal
17 Subchapter S rules as in effect on July 1, 1982; and

18 (H) Partnerships. In the case of a partnership,
19 taxable income determined in accordance with Section
20 703 of the Internal Revenue Code, except that taxable
21 income shall take into account those items which are
22 required by Section 703(a)(1) to be separately stated
23 but which would be taken into account by an individual
24 in calculating his taxable income.

25 (3) Recapture of business expenses on disposition of
26 asset or business. Notwithstanding any other law to the

1 contrary, if in prior years income from an asset or
2 business has been classified as business income and in a
3 later year is demonstrated to be non-business income, then
4 all expenses, without limitation, deducted in such later
5 year and in the 2 immediately preceding taxable years
6 related to that asset or business that generated the
7 non-business income shall be added back and recaptured as
8 business income in the year of the disposition of the asset
9 or business. Such amount shall be apportioned to Illinois
10 using the greater of the apportionment fraction computed
11 for the business under Section 304 of this Act for the
12 taxable year or the average of the apportionment fractions
13 computed for the business under Section 304 of this Act for
14 the taxable year and for the 2 immediately preceding
15 taxable years.

16 (f) Valuation limitation amount.

17 (1) In general. The valuation limitation amount
18 referred to in subsections (a)(2)(G), (c)(2)(I) and
19 (d)(2)(E) is an amount equal to:

20 (A) The sum of the pre-August 1, 1969 appreciation
21 amounts (to the extent consisting of gain reportable
22 under the provisions of Section 1245 or 1250 of the
23 Internal Revenue Code) for all property in respect of
24 which such gain was reported for the taxable year; plus

25 (B) The lesser of (i) the sum of the pre-August 1,

1 1969 appreciation amounts (to the extent consisting of
2 capital gain) for all property in respect of which such
3 gain was reported for federal income tax purposes for
4 the taxable year, or (ii) the net capital gain for the
5 taxable year, reduced in either case by any amount of
6 such gain included in the amount determined under
7 subsection (a) (2) (F) or (c) (2) (H).

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

9 (A) If the fair market value of property referred
10 to in paragraph (1) was readily ascertainable on August
11 1, 1969, the pre-August 1, 1969 appreciation amount for
12 such property is the lesser of (i) the excess of such
13 fair market value over the taxpayer's basis (for
14 determining gain) for such property on that date
15 (determined under the Internal Revenue Code as in
16 effect on that date), or (ii) the total gain realized
17 and reportable for federal income tax purposes in
18 respect of the sale, exchange or other disposition of
19 such property.

20 (B) If the fair market value of property referred
21 to in paragraph (1) was not readily ascertainable on
22 August 1, 1969, the pre-August 1, 1969 appreciation
23 amount for such property is that amount which bears the
24 same ratio to the total gain reported in respect of the
25 property for federal income tax purposes for the
26 taxable year, as the number of full calendar months in

1 that part of the taxpayer's holding period for the
2 property ending July 31, 1969 bears to the number of
3 full calendar months in the taxpayer's entire holding
4 period for the property.

5 (C) The Department shall prescribe such
6 regulations as may be necessary to carry out the
7 purposes of this paragraph.

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

11 (h) Legislative intention. Except as expressly provided by
12 this Section there shall be no modifications or limitations on
13 the amounts of income, gain, loss or deduction taken into
14 account in determining gross income, adjusted gross income or
15 taxable income for federal income tax purposes for the taxable
16 year, or in the amount of such items entering into the
17 computation of base income and net income under this Act for
18 such taxable year, whether in respect of property values as of
19 August 1, 1969 or otherwise.

20 (Source: P.A. 100-22, eff. 7-6-17; 100-905, eff. 8-17-18;
21 revised 10-29-18.)

22 Section 10-10. The Use Tax Act is amended by changing
23 Section 2 and by adding Section 2d as follows:

1 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

2 Sec. 2. Definitions.

3 "Use" means the exercise by any person of any right or
4 power over tangible personal property incident to the ownership
5 of that property, except that it does not include the sale of
6 such property in any form as tangible personal property in the
7 regular course of business to the extent that such property is
8 not first subjected to a use for which it was purchased, and
9 does not include the use of such property by its owner for
10 demonstration purposes: Provided that the property purchased
11 is deemed to be purchased for the purpose of resale, despite
12 first being used, to the extent to which it is resold as an
13 ingredient of an intentionally produced product or by-product
14 of manufacturing. "Use" does not mean the demonstration use or
15 interim use of tangible personal property by a retailer before
16 he sells that tangible personal property. For watercraft or
17 aircraft, if the period of demonstration use or interim use by
18 the retailer exceeds 18 months, the retailer shall pay on the
19 retailers' original cost price the tax imposed by this Act, and
20 no credit for that tax is permitted if the watercraft or
21 aircraft is subsequently sold by the retailer. "Use" does not
22 mean the physical incorporation of tangible personal property,
23 to the extent not first subjected to a use for which it was
24 purchased, as an ingredient or constituent, into other tangible
25 personal property (a) which is sold in the regular course of

1 business or (b) which the person incorporating such ingredient
2 or constituent therein has undertaken at the time of such
3 purchase to cause to be transported in interstate commerce to
4 destinations outside the State of Illinois: Provided that the
5 property purchased is deemed to be purchased for the purpose of
6 resale, despite first being used, to the extent to which it is
7 resold as an ingredient of an intentionally produced product or
8 by-product of manufacturing.

9 "Watercraft" means a Class 2, Class 3, or Class 4
10 watercraft as defined in Section 3-2 of the Boat Registration
11 and Safety Act, a personal watercraft, or any boat equipped
12 with an inboard motor.

13 "Purchase at retail" means the acquisition of the ownership
14 of or title to tangible personal property through a sale at
15 retail.

16 "Purchaser" means anyone who, through a sale at retail,
17 acquires the ownership of tangible personal property for a
18 valuable consideration.

19 "Sale at retail" means any transfer of the ownership of or
20 title to tangible personal property to a purchaser, for the
21 purpose of use, and not for the purpose of resale in any form
22 as tangible personal property to the extent not first subjected
23 to a use for which it was purchased, for a valuable
24 consideration: Provided that the property purchased is deemed
25 to be purchased for the purpose of resale, despite first being
26 used, to the extent to which it is resold as an ingredient of

1 an intentionally produced product or by-product of
2 manufacturing. For this purpose, slag produced as an incident
3 to manufacturing pig iron or steel and sold is considered to be
4 an intentionally produced by-product of manufacturing. "Sale
5 at retail" includes any such transfer made for resale unless
6 made in compliance with Section 2c of the Retailers' Occupation
7 Tax Act, as incorporated by reference into Section 12 of this
8 Act. Transactions whereby the possession of the property is
9 transferred but the seller retains the title as security for
10 payment of the selling price are sales.

11 "Sale at retail" shall also be construed to include any
12 Illinois florist's sales transaction in which the purchase
13 order is received in Illinois by a florist and the sale is for
14 use or consumption, but the Illinois florist has a florist in
15 another state deliver the property to the purchaser or the
16 purchaser's donee in such other state.

17 Nonreusable tangible personal property that is used by
18 persons engaged in the business of operating a restaurant,
19 cafeteria, or drive-in is a sale for resale when it is
20 transferred to customers in the ordinary course of business as
21 part of the sale of food or beverages and is used to deliver,
22 package, or consume food or beverages, regardless of where
23 consumption of the food or beverages occurs. Examples of those
24 items include, but are not limited to nonreusable, paper and
25 plastic cups, plates, baskets, boxes, sleeves, buckets or other
26 containers, utensils, straws, placemats, napkins, doggie bags,

1 and wrapping or packaging materials that are transferred to
2 customers as part of the sale of food or beverages in the
3 ordinary course of business.

4 The purchase, employment and transfer of such tangible
5 personal property as newsprint and ink for the primary purpose
6 of conveying news (with or without other information) is not a
7 purchase, use or sale of tangible personal property.

8 "Selling price" means the consideration for a sale valued
9 in money whether received in money or otherwise, including
10 cash, credits, property other than as hereinafter provided, and
11 services, but not including the value of or credit given for
12 traded-in tangible personal property where the item that is
13 traded-in is of like kind and character as that which is being
14 sold, and shall be determined without any deduction on account
15 of the cost of the property sold, the cost of materials used,
16 labor or service cost or any other expense whatsoever, but does
17 not include interest or finance charges which appear as
18 separate items on the bill of sale or sales contract nor
19 charges that are added to prices by sellers on account of the
20 seller's tax liability under the "Retailers' Occupation Tax
21 Act", or on account of the seller's duty to collect, from the
22 purchaser, the tax that is imposed by this Act, or, except as
23 otherwise provided with respect to any cigarette tax imposed by
24 a home rule unit, on account of the seller's tax liability
25 under any local occupation tax administered by the Department,
26 or, except as otherwise provided with respect to any cigarette

1 tax imposed by a home rule unit on account of the seller's duty
2 to collect, from the purchasers, the tax that is imposed under
3 any local use tax administered by the Department. Effective
4 December 1, 1985, "selling price" shall include charges that
5 are added to prices by sellers on account of the seller's tax
6 liability under the Cigarette Tax Act, on account of the
7 seller's duty to collect, from the purchaser, the tax imposed
8 under the Cigarette Use Tax Act, and on account of the seller's
9 duty to collect, from the purchaser, any cigarette tax imposed
10 by a home rule unit.

11 Notwithstanding any law to the contrary, for any motor
12 vehicle, as defined in Section 1-146 of the Vehicle Code, that
13 is sold on or after January 1, 2015 for the purpose of leasing
14 the vehicle for a defined period that is longer than one year
15 and (1) is a motor vehicle of the second division that: (A) is
16 a self-contained motor vehicle designed or permanently
17 converted to provide living quarters for recreational,
18 camping, or travel use, with direct walk through access to the
19 living quarters from the driver's seat; (B) is of the van
20 configuration designed for the transportation of not less than
21 7 nor more than 16 passengers; or (C) has a gross vehicle
22 weight rating of 8,000 pounds or less or (2) is a motor vehicle
23 of the first division, "selling price" or "amount of sale"
24 means the consideration received by the lessor pursuant to the
25 lease contract, including amounts due at lease signing and all
26 monthly or other regular payments charged over the term of the

1 lease. Also included in the selling price is any amount
2 received by the lessor from the lessee for the leased vehicle
3 that is not calculated at the time the lease is executed,
4 including, but not limited to, excess mileage charges and
5 charges for excess wear and tear. For sales that occur in
6 Illinois, with respect to any amount received by the lessor
7 from the lessee for the leased vehicle that is not calculated
8 at the time the lease is executed, the lessor who purchased the
9 motor vehicle does not incur the tax imposed by the Use Tax Act
10 on those amounts, and the retailer who makes the retail sale of
11 the motor vehicle to the lessor is not required to collect the
12 tax imposed by this Act or to pay the tax imposed by the
13 Retailers' Occupation Tax Act on those amounts. However, the
14 lessor who purchased the motor vehicle assumes the liability
15 for reporting and paying the tax on those amounts directly to
16 the Department in the same form (Illinois Retailers' Occupation
17 Tax, and local retailers' occupation taxes, if applicable) in
18 which the retailer would have reported and paid such tax if the
19 retailer had accounted for the tax to the Department. For
20 amounts received by the lessor from the lessee that are not
21 calculated at the time the lease is executed, the lessor must
22 file the return and pay the tax to the Department by the due
23 date otherwise required by this Act for returns other than
24 transaction returns. If the retailer is entitled under this Act
25 to a discount for collecting and remitting the tax imposed
26 under this Act to the Department with respect to the sale of

1 the motor vehicle to the lessor, then the right to the discount
2 provided in this Act shall be transferred to the lessor with
3 respect to the tax paid by the lessor for any amount received
4 by the lessor from the lessee for the leased vehicle that is
5 not calculated at the time the lease is executed; provided that
6 the discount is only allowed if the return is timely filed and
7 for amounts timely paid. The "selling price" of a motor vehicle
8 that is sold on or after January 1, 2015 for the purpose of
9 leasing for a defined period of longer than one year shall not
10 be reduced by the value of or credit given for traded-in
11 tangible personal property owned by the lessor, nor shall it be
12 reduced by the value of or credit given for traded-in tangible
13 personal property owned by the lessee, regardless of whether
14 the trade-in value thereof is assigned by the lessee to the
15 lessor. In the case of a motor vehicle that is sold for the
16 purpose of leasing for a defined period of longer than one
17 year, the sale occurs at the time of the delivery of the
18 vehicle, regardless of the due date of any lease payments. A
19 lessor who incurs a Retailers' Occupation Tax liability on the
20 sale of a motor vehicle coming off lease may not take a credit
21 against that liability for the Use Tax the lessor paid upon the
22 purchase of the motor vehicle (or for any tax the lessor paid
23 with respect to any amount received by the lessor from the
24 lessee for the leased vehicle that was not calculated at the
25 time the lease was executed) if the selling price of the motor
26 vehicle at the time of purchase was calculated using the

1 definition of "selling price" as defined in this paragraph.
2 Notwithstanding any other provision of this Act to the
3 contrary, lessors shall file all returns and make all payments
4 required under this paragraph to the Department by electronic
5 means in the manner and form as required by the Department.
6 This paragraph does not apply to leases of motor vehicles for
7 which, at the time the lease is entered into, the term of the
8 lease is not a defined period, including leases with a defined
9 initial period with the option to continue the lease on a
10 month-to-month or other basis beyond the initial defined
11 period.

12 The phrase "like kind and character" shall be liberally
13 construed (including but not limited to any form of motor
14 vehicle for any form of motor vehicle, or any kind of farm or
15 agricultural implement for any other kind of farm or
16 agricultural implement), while not including a kind of item
17 which, if sold at retail by that retailer, would be exempt from
18 retailers' occupation tax and use tax as an isolated or
19 occasional sale.

20 "Department" means the Department of Revenue.

21 "Person" means any natural individual, firm, partnership,
22 association, joint stock company, joint adventure, public or
23 private corporation, limited liability company, or a receiver,
24 executor, trustee, guardian or other representative appointed
25 by order of any court.

26 "Retailer" means and includes every person engaged in the

1 business of making sales at retail as defined in this Section.

2 A person who holds himself or herself out as being engaged
3 (or who habitually engages) in selling tangible personal
4 property at retail is a retailer hereunder with respect to such
5 sales (and not primarily in a service occupation)
6 notwithstanding the fact that such person designs and produces
7 such tangible personal property on special order for the
8 purchaser and in such a way as to render the property of value
9 only to such purchaser, if such tangible personal property so
10 produced on special order serves substantially the same
11 function as stock or standard items of tangible personal
12 property that are sold at retail.

13 A person whose activities are organized and conducted
14 primarily as a not-for-profit service enterprise, and who
15 engages in selling tangible personal property at retail
16 (whether to the public or merely to members and their guests)
17 is a retailer with respect to such transactions, excepting only
18 a person organized and operated exclusively for charitable,
19 religious or educational purposes either (1), to the extent of
20 sales by such person to its members, students, patients or
21 inmates of tangible personal property to be used primarily for
22 the purposes of such person, or (2), to the extent of sales by
23 such person of tangible personal property which is not sold or
24 offered for sale by persons organized for profit. The selling
25 of school books and school supplies by schools at retail to
26 students is not "primarily for the purposes of" the school

1 which does such selling. This paragraph does not apply to nor
2 subject to taxation occasional dinners, social or similar
3 activities of a person organized and operated exclusively for
4 charitable, religious or educational purposes, whether or not
5 such activities are open to the public.

6 A person who is the recipient of a grant or contract under
7 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
8 serves meals to participants in the federal Nutrition Program
9 for the Elderly in return for contributions established in
10 amount by the individual participant pursuant to a schedule of
11 suggested fees as provided for in the federal Act is not a
12 retailer under this Act with respect to such transactions.

13 Persons who engage in the business of transferring tangible
14 personal property upon the redemption of trading stamps are
15 retailers hereunder when engaged in such business.

16 The isolated or occasional sale of tangible personal
17 property at retail by a person who does not hold himself out as
18 being engaged (or who does not habitually engage) in selling
19 such tangible personal property at retail or a sale through a
20 bulk vending machine does not make such person a retailer
21 hereunder. However, any person who is engaged in a business
22 which is not subject to the tax imposed by the "Retailers'
23 Occupation Tax Act" because of involving the sale of or a
24 contract to sell real estate or a construction contract to
25 improve real estate, but who, in the course of conducting such
26 business, transfers tangible personal property to users or

1 consumers in the finished form in which it was purchased, and
2 which does not become real estate, under any provision of a
3 construction contract or real estate sale or real estate sales
4 agreement entered into with some other person arising out of or
5 because of such nontaxable business, is a retailer to the
6 extent of the value of the tangible personal property so
7 transferred. If, in such transaction, a separate charge is made
8 for the tangible personal property so transferred, the value of
9 such property, for the purposes of this Act, is the amount so
10 separately charged, but not less than the cost of such property
11 to the transferor; if no separate charge is made, the value of
12 such property, for the purposes of this Act, is the cost to the
13 transferor of such tangible personal property.

14 "Retailer maintaining a place of business in this State",
15 or any like term, means and includes any of the following
16 retailers:

17 (1) A retailer having or maintaining within this State,
18 directly or by a subsidiary, an office, distribution house,
19 sales house, warehouse or other place of business, or any
20 agent or other representative operating within this State
21 under the authority of the retailer or its subsidiary,
22 irrespective of whether such place of business or agent or
23 other representative is located here permanently or
24 temporarily, or whether such retailer or subsidiary is
25 licensed to do business in this State. However, the
26 ownership of property that is located at the premises of a

1 printer with which the retailer has contracted for printing
2 and that consists of the final printed product, property
3 that becomes a part of the final printed product, or copy
4 from which the printed product is produced shall not result
5 in the retailer being deemed to have or maintain an office,
6 distribution house, sales house, warehouse, or other place
7 of business within this State.

8 (1.1) A retailer having a contract with a person
9 located in this State under which the person, for a
10 commission or other consideration based upon the sale of
11 tangible personal property by the retailer, directly or
12 indirectly refers potential customers to the retailer by
13 providing to the potential customers a promotional code or
14 other mechanism that allows the retailer to track purchases
15 referred by such persons. Examples of mechanisms that allow
16 the retailer to track purchases referred by such persons
17 include but are not limited to the use of a link on the
18 person's Internet website, promotional codes distributed
19 through the person's hand-delivered or mailed material,
20 and promotional codes distributed by the person through
21 radio or other broadcast media. The provisions of this
22 paragraph (1.1) shall apply only if the cumulative gross
23 receipts from sales of tangible personal property by the
24 retailer to customers who are referred to the retailer by
25 all persons in this State under such contracts exceed
26 \$10,000 during the preceding 4 quarterly periods ending on

1 the last day of March, June, September, and December. A
2 retailer meeting the requirements of this paragraph (1.1)
3 shall be presumed to be maintaining a place of business in
4 this State but may rebut this presumption by submitting
5 proof that the referrals or other activities pursued within
6 this State by such persons were not sufficient to meet the
7 nexus standards of the United States Constitution during
8 the preceding 4 quarterly periods.

9 (1.2) Beginning July 1, 2011, a retailer having a
10 contract with a person located in this State under which:

11 (A) the retailer sells the same or substantially
12 similar line of products as the person located in this
13 State and does so using an identical or substantially
14 similar name, trade name, or trademark as the person
15 located in this State; and

16 (B) the retailer provides a commission or other
17 consideration to the person located in this State based
18 upon the sale of tangible personal property by the
19 retailer.

20 The provisions of this paragraph (1.2) shall apply only if
21 the cumulative gross receipts from sales of tangible
22 personal property by the retailer to customers in this
23 State under all such contracts exceed \$10,000 during the
24 preceding 4 quarterly periods ending on the last day of
25 March, June, September, and December.

26 (2) A retailer soliciting orders for tangible personal

1 property by means of a telecommunication or television
2 shopping system (which utilizes toll free numbers) which is
3 intended by the retailer to be broadcast by cable
4 television or other means of broadcasting, to consumers
5 located in this State.

6 (3) A retailer, pursuant to a contract with a
7 broadcaster or publisher located in this State, soliciting
8 orders for tangible personal property by means of
9 advertising which is disseminated primarily to consumers
10 located in this State and only secondarily to bordering
11 jurisdictions.

12 (4) A retailer soliciting orders for tangible personal
13 property by mail if the solicitations are substantial and
14 recurring and if the retailer benefits from any banking,
15 financing, debt collection, telecommunication, or
16 marketing activities occurring in this State or benefits
17 from the location in this State of authorized installation,
18 servicing, or repair facilities.

19 (5) A retailer that is owned or controlled by the same
20 interests that own or control any retailer engaging in
21 business in the same or similar line of business in this
22 State.

23 (6) A retailer having a franchisee or licensee
24 operating under its trade name if the franchisee or
25 licensee is required to collect the tax under this Section.

26 (7) A retailer, pursuant to a contract with a cable

1 television operator located in this State, soliciting
2 orders for tangible personal property by means of
3 advertising which is transmitted or distributed over a
4 cable television system in this State.

5 (8) A retailer engaging in activities in Illinois,
6 which activities in the state in which the retail business
7 engaging in such activities is located would constitute
8 maintaining a place of business in that state.

9 (9) Beginning October 1, 2018, a retailer making sales
10 of tangible personal property to purchasers in Illinois
11 from outside of Illinois if:

12 (A) the cumulative gross receipts from sales of
13 tangible personal property to purchasers in Illinois
14 are \$100,000 or more; or

15 (B) the retailer enters into 200 or more separate
16 transactions for the sale of tangible personal
17 property to purchasers in Illinois.

18 The retailer shall determine on a quarterly basis,
19 ending on the last day of March, June, September, and
20 December, whether he or she meets the criteria of either
21 subparagraph (A) or (B) of this paragraph (9) for the
22 preceding 12-month period. If the retailer meets the
23 criteria of either subparagraph (A) or (B) for a 12-month
24 period, he or she is considered a retailer maintaining a
25 place of business in this State and is required to collect
26 and remit the tax imposed under this Act and file returns

1 for one year. At the end of that one-year period, the
2 retailer shall determine whether the retailer met the
3 criteria of either subparagraph (A) or (B) during the
4 preceding 12-month period. If the retailer met the criteria
5 in either subparagraph (A) or (B) for the preceding
6 12-month period, he or she is considered a retailer
7 maintaining a place of business in this State and is
8 required to collect and remit the tax imposed under this
9 Act and file returns for the subsequent year. If at the end
10 of a one-year period a retailer that was required to
11 collect and remit the tax imposed under this Act determines
12 that he or she did not meet the criteria in either
13 subparagraph (A) or (B) during the preceding 12-month
14 period, the retailer shall subsequently determine on a
15 quarterly basis, ending on the last day of March, June,
16 September, and December, whether he or she meets the
17 criteria of either subparagraph (A) or (B) for the
18 preceding 12-month period.

19 Beginning January 1, 2020, neither the gross receipts
20 from nor the number of separate transactions for sales of
21 tangible personal property to purchasers in Illinois that a
22 retailer makes through a marketplace facilitator and for
23 which the retailer has received a certification from the
24 marketplace facilitator pursuant to Section 2d of this Act
25 shall be included for purposes of determining whether he or
26 she has met the thresholds of this paragraph (9).

1 (10) Beginning January 1, 2020, a marketplace
2 facilitator, as defined in Section 2d of this Act.

3 "Bulk vending machine" means a vending machine, containing
4 unsorted confections, nuts, toys, or other items designed
5 primarily to be used or played with by children which, when a
6 coin or coins of a denomination not larger than \$0.50 are
7 inserted, are dispensed in equal portions, at random and
8 without selection by the customer.

9 (Source: P.A. 99-78, eff. 7-20-15; 100-587, eff. 6-4-18.)

10 (35 ILCS 105/2d new)

11 Sec. 2d. Marketplace facilitators and marketplace sellers.

12 (a) As used in this Section:

13 "Affiliate" means a person that, with respect to another
14 person: (i) has a direct or indirect ownership interest of more
15 than 5 percent in the other person; or (ii) is related to the
16 other person because a third person, or a group of third
17 persons who are affiliated with each other as defined in this
18 subsection, holds a direct or indirect ownership interest of
19 more than 5% in the related person.

20 "Marketplace" means a physical or electronic place, forum,
21 platform, application, or other method by which a marketplace
22 seller sells or offers to sell items.

23 "Marketplace facilitator" means a person who, pursuant to
24 an agreement with a marketplace seller, facilitates sales of
25 tangible personal property by that marketplace seller. A person

1 facilitates a sale of tangible personal property by, directly
2 or indirectly through one or more affiliates, doing both of the
3 following: (i) listing or otherwise making available for sale
4 the tangible personal property of the marketplace seller
5 through a marketplace owned or operated by the marketplace
6 facilitator; and (ii) processing sales or payments for
7 marketplace sellers.

8 "Marketplace seller" means a person that sells or offers to
9 sell tangible personal property through a marketplace.

10 (b) Beginning on January 1, 2020, a marketplace facilitator
11 who meets either of the following criteria is considered the
12 retailer of each sale of tangible personal property made on the
13 marketplace:

14 (1) the cumulative gross receipts from sales of
15 tangible personal property to purchasers in Illinois by the
16 marketplace facilitator and by marketplace sellers are
17 \$100,000 or more; or

18 (2) the marketplace facilitator and marketplace
19 sellers cumulatively enter into 200 or more separate
20 transactions for the sale of tangible personal property to
21 purchasers in Illinois.

22 A marketplace facilitator shall determine on a quarterly
23 basis, ending on the last day of March, June, September, and
24 December, whether he or she meets the criteria of either
25 paragraph (1) or (2) of this subsection (b) for the preceding
26 12-month period. If the marketplace facilitator meets the

1 criteria of either paragraph (1) or (2) for a 12-month period,
2 he or she is considered a retailer maintaining a place of
3 business in this State and is required to collect and remit the
4 tax imposed under this Act and file returns for one year. At
5 the end of that one-year period, the marketplace facilitator
6 shall determine whether the marketplace facilitator met the
7 criteria of either paragraph (1) or (2) during the preceding
8 12-month period. If the marketplace facilitator met the
9 criteria in either paragraph (1) or (2) for the preceding
10 12-month period, he or she is considered a retailer maintaining
11 a place of business in this State and is required to collect
12 and remit the tax imposed under this Act and file returns for
13 the subsequent year. If at the end of a one-year period a
14 marketplace facilitator that was required to collect and remit
15 the tax imposed under this Act determines that he or she did
16 not meet the criteria in either paragraph (1) or (2) during the
17 preceding 12-month period, the marketplace facilitator shall
18 subsequently determine on a quarterly basis, ending on the last
19 day of March, June, September, and December, whether he or she
20 meets the criteria of either paragraph (1) or (2) for the
21 preceding 12-month period.

22 (c) A marketplace facilitator that meets either of the
23 thresholds in subsection (b) of this Section is considered the
24 retailer of each sale made through its marketplace and is
25 liable for collecting and remitting the tax under this Act on
26 all such sales. The marketplace facilitator has all the rights

1 and duties, and is required to comply with the same
2 requirements and procedures, as all other retailers
3 maintaining a place of business in this State who are
4 registered or who are required to be registered to collect and
5 remit the tax imposed by this Act.

6 (d) A marketplace facilitator shall:

7 (1) certify to each marketplace seller that the
8 marketplace facilitator assumes the rights and duties of a
9 retailer under this Act with respect to sales made by the
10 marketplace seller through the marketplace; and

11 (2) collect taxes imposed by this Act as required by
12 Section 3-45 of this Act for sales made through the
13 marketplace.

14 (e) A marketplace seller shall retain books and records for
15 all sales made through a marketplace in accordance with the
16 requirements of Section 11.

17 (f) A marketplace seller shall furnish to the marketplace
18 facilitator information that is necessary for the marketplace
19 facilitator to correctly collect and remit taxes for a retail
20 sale. The information may include a certification that an item
21 being sold is taxable, not taxable, exempt from taxation, or
22 taxable at a specified rate. A marketplace seller shall be held
23 harmless for liability for the tax imposed under this Act when
24 a marketplace facilitator fails to correctly collect and remit
25 tax after having been provided with information by a
26 marketplace seller to correctly collect and remit taxes imposed

1 under this Act.

2 (g) Except as provided in subsection (h), if the
3 marketplace facilitator demonstrates to the satisfaction of
4 the Department that its failure to correctly collect and remit
5 tax on a retail sale resulted from the marketplace
6 facilitator's good faith reliance on incorrect or insufficient
7 information provided by a marketplace seller, it shall be
8 relieved of liability for the tax on that retail sale. In this
9 case, a marketplace seller is liable for any resulting tax due.

10 (h) A marketplace facilitator and marketplace seller that
11 are affiliates, as defined by subsection (a), are jointly and
12 severally liable for tax liability resulting from a sale made
13 by the affiliated marketplace seller through the marketplace.

14 (i) This Section does not affect the tax liability of a
15 purchaser under this Act.

16 (j) No acts or omissions regarding the charging of taxes
17 under this Act shall be the basis for filing an action by a
18 private person under the Illinois False Claims Act. The
19 Department shall have the sole authority to bring an
20 administrative action resulting from information provided by
21 any person alleging a false claim, or alleging that a person
22 has made, used, or caused to be made or used, a false record or
23 statement material to a false claim, as defined in Section 3 of
24 the Illinois False Claims Act, pertaining to any tax collected,
25 or required to be collected, by a marketplace facilitator under
26 this Act. In addition, a court may not certify an action

1 brought against a marketplace facilitator concerning this
2 Section as a class action.

3 (k) The Department may adopt rules for the administration
4 and enforcement of the provisions of this Section.

5 Section 10-15. The Service Use Tax Act is amended by
6 changing Section 2 and by adding Section 2d as follows:

7 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

8 Sec. 2. Definitions. In this Act:

9 "Use" means the exercise by any person of any right or
10 power over tangible personal property incident to the ownership
11 of that property, but does not include the sale or use for
12 demonstration by him of that property in any form as tangible
13 personal property in the regular course of business. "Use" does
14 not mean the interim use of tangible personal property nor the
15 physical incorporation of tangible personal property, as an
16 ingredient or constituent, into other tangible personal
17 property, (a) which is sold in the regular course of business
18 or (b) which the person incorporating such ingredient or
19 constituent therein has undertaken at the time of such purchase
20 to cause to be transported in interstate commerce to
21 destinations outside the State of Illinois.

22 "Purchased from a serviceman" means the acquisition of the
23 ownership of, or title to, tangible personal property through a
24 sale of service.

1 "Purchaser" means any person who, through a sale of
2 service, acquires the ownership of, or title to, any tangible
3 personal property.

4 "Cost price" means the consideration paid by the serviceman
5 for a purchase valued in money, whether paid in money or
6 otherwise, including cash, credits and services, and shall be
7 determined without any deduction on account of the supplier's
8 cost of the property sold or on account of any other expense
9 incurred by the supplier. When a serviceman contracts out part
10 or all of the services required in his sale of service, it
11 shall be presumed that the cost price to the serviceman of the
12 property transferred to him or her by his or her subcontractor
13 is equal to 50% of the subcontractor's charges to the
14 serviceman in the absence of proof of the consideration paid by
15 the subcontractor for the purchase of such property.

16 "Selling price" means the consideration for a sale valued
17 in money whether received in money or otherwise, including
18 cash, credits and service, and shall be determined without any
19 deduction on account of the serviceman's cost of the property
20 sold, the cost of materials used, labor or service cost or any
21 other expense whatsoever, but does not include interest or
22 finance charges which appear as separate items on the bill of
23 sale or sales contract nor charges that are added to prices by
24 sellers on account of the seller's duty to collect, from the
25 purchaser, the tax that is imposed by this Act.

26 "Department" means the Department of Revenue.

1 "Person" means any natural individual, firm, partnership,
2 association, joint stock company, joint venture, public or
3 private corporation, limited liability company, and any
4 receiver, executor, trustee, guardian or other representative
5 appointed by order of any court.

6 "Sale of service" means any transaction except:

7 (1) a retail sale of tangible personal property taxable
8 under the Retailers' Occupation Tax Act or under the Use
9 Tax Act.

10 (2) a sale of tangible personal property for the
11 purpose of resale made in compliance with Section 2c of the
12 Retailers' Occupation Tax Act.

13 (3) except as hereinafter provided, a sale or transfer
14 of tangible personal property as an incident to the
15 rendering of service for or by any governmental body, or
16 for or by any corporation, society, association,
17 foundation or institution organized and operated
18 exclusively for charitable, religious or educational
19 purposes or any not-for-profit corporation, society,
20 association, foundation, institution or organization which
21 has no compensated officers or employees and which is
22 organized and operated primarily for the recreation of
23 persons 55 years of age or older. A limited liability
24 company may qualify for the exemption under this paragraph
25 only if the limited liability company is organized and
26 operated exclusively for educational purposes.

1 (4) (blank).

2 (4a) a sale or transfer of tangible personal property
3 as an incident to the rendering of service for owners,
4 lessors, or shippers of tangible personal property which is
5 utilized by interstate carriers for hire for use as rolling
6 stock moving in interstate commerce so long as so used by
7 interstate carriers for hire, and equipment operated by a
8 telecommunications provider, licensed as a common carrier
9 by the Federal Communications Commission, which is
10 permanently installed in or affixed to aircraft moving in
11 interstate commerce.

12 (4a-5) on and after July 1, 2003 and through June 30,
13 2004, a sale or transfer of a motor vehicle of the second
14 division with a gross vehicle weight in excess of 8,000
15 pounds as an incident to the rendering of service if that
16 motor vehicle is subject to the commercial distribution fee
17 imposed under Section 3-815.1 of the Illinois Vehicle Code.
18 Beginning on July 1, 2004 and through June 30, 2005, the
19 use in this State of motor vehicles of the second division:
20 (i) with a gross vehicle weight rating in excess of 8,000
21 pounds; (ii) that are subject to the commercial
22 distribution fee imposed under Section 3-815.1 of the
23 Illinois Vehicle Code; and (iii) that are primarily used
24 for commercial purposes. Through June 30, 2005, this
25 exemption applies to repair and replacement parts added
26 after the initial purchase of such a motor vehicle if that

1 motor vehicle is used in a manner that would qualify for
2 the rolling stock exemption otherwise provided for in this
3 Act. For purposes of this paragraph, "used for commercial
4 purposes" means the transportation of persons or property
5 in furtherance of any commercial or industrial enterprise
6 whether for-hire or not.

7 (5) a sale or transfer of machinery and equipment used
8 primarily in the process of the manufacturing or
9 assembling, either in an existing, an expanded or a new
10 manufacturing facility, of tangible personal property for
11 wholesale or retail sale or lease, whether such sale or
12 lease is made directly by the manufacturer or by some other
13 person, whether the materials used in the process are owned
14 by the manufacturer or some other person, or whether such
15 sale or lease is made apart from or as an incident to the
16 seller's engaging in a service occupation and the
17 applicable tax is a Service Use Tax or Service Occupation
18 Tax, rather than Use Tax or Retailers' Occupation Tax. The
19 exemption provided by this paragraph (5) does not include
20 machinery and equipment used in (i) the generation of
21 electricity for wholesale or retail sale; (ii) the
22 generation or treatment of natural or artificial gas for
23 wholesale or retail sale that is delivered to customers
24 through pipes, pipelines, or mains; or (iii) the treatment
25 of water for wholesale or retail sale that is delivered to
26 customers through pipes, pipelines, or mains. The

1 provisions of Public Act 98-583 are declaratory of existing
2 law as to the meaning and scope of this exemption. The
3 exemption under this paragraph (5) is exempt from the
4 provisions of Section 3-75.

5 (5a) the repairing, reconditioning or remodeling, for
6 a common carrier by rail, of tangible personal property
7 which belongs to such carrier for hire, and as to which
8 such carrier receives the physical possession of the
9 repaired, reconditioned or remodeled item of tangible
10 personal property in Illinois, and which such carrier
11 transports, or shares with another common carrier in the
12 transportation of such property, out of Illinois on a
13 standard uniform bill of lading showing the person who
14 repaired, reconditioned or remodeled the property to a
15 destination outside Illinois, for use outside Illinois.

16 (5b) a sale or transfer of tangible personal property
17 which is produced by the seller thereof on special order in
18 such a way as to have made the applicable tax the Service
19 Occupation Tax or the Service Use Tax, rather than the
20 Retailers' Occupation Tax or the Use Tax, for an interstate
21 carrier by rail which receives the physical possession of
22 such property in Illinois, and which transports such
23 property, or shares with another common carrier in the
24 transportation of such property, out of Illinois on a
25 standard uniform bill of lading showing the seller of the
26 property as the shipper or consignor of such property to a

1 destination outside Illinois, for use outside Illinois.

2 (6) until July 1, 2003, a sale or transfer of
3 distillation machinery and equipment, sold as a unit or kit
4 and assembled or installed by the retailer, which machinery
5 and equipment is certified by the user to be used only for
6 the production of ethyl alcohol that will be used for
7 consumption as motor fuel or as a component of motor fuel
8 for the personal use of such user and not subject to sale
9 or resale.

10 (7) at the election of any serviceman not required to
11 be otherwise registered as a retailer under Section 2a of
12 the Retailers' Occupation Tax Act, made for each fiscal
13 year sales of service in which the aggregate annual cost
14 price of tangible personal property transferred as an
15 incident to the sales of service is less than 35%, or 75%
16 in the case of servicemen transferring prescription drugs
17 or servicemen engaged in graphic arts production, of the
18 aggregate annual total gross receipts from all sales of
19 service. The purchase of such tangible personal property by
20 the serviceman shall be subject to tax under the Retailers'
21 Occupation Tax Act and the Use Tax Act. However, if a
22 primary serviceman who has made the election described in
23 this paragraph subcontracts service work to a secondary
24 serviceman who has also made the election described in this
25 paragraph, the primary serviceman does not incur a Use Tax
26 liability if the secondary serviceman (i) has paid or will

1 pay Use Tax on his or her cost price of any tangible
2 personal property transferred to the primary serviceman
3 and (ii) certifies that fact in writing to the primary
4 serviceman.

5 Tangible personal property transferred incident to the
6 completion of a maintenance agreement is exempt from the tax
7 imposed pursuant to this Act.

8 Exemption (5) also includes machinery and equipment used in
9 the general maintenance or repair of such exempt machinery and
10 equipment or for in-house manufacture of exempt machinery and
11 equipment. On and after July 1, 2017, exemption (5) also
12 includes graphic arts machinery and equipment, as defined in
13 paragraph (5) of Section 3-5. The machinery and equipment
14 exemption does not include machinery and equipment used in (i)
15 the generation of electricity for wholesale or retail sale;
16 (ii) the generation or treatment of natural or artificial gas
17 for wholesale or retail sale that is delivered to customers
18 through pipes, pipelines, or mains; or (iii) the treatment of
19 water for wholesale or retail sale that is delivered to
20 customers through pipes, pipelines, or mains. The provisions of
21 Public Act 98-583 are declaratory of existing law as to the
22 meaning and scope of this exemption. For the purposes of
23 exemption (5), each of these terms shall have the following
24 meanings: (1) "manufacturing process" shall mean the
25 production of any article of tangible personal property,
26 whether such article is a finished product or an article for

1 use in the process of manufacturing or assembling a different
2 article of tangible personal property, by procedures commonly
3 regarded as manufacturing, processing, fabricating, or
4 refining which changes some existing material or materials into
5 a material with a different form, use or name. In relation to a
6 recognized integrated business composed of a series of
7 operations which collectively constitute manufacturing, or
8 individually constitute manufacturing operations, the
9 manufacturing process shall be deemed to commence with the
10 first operation or stage of production in the series, and shall
11 not be deemed to end until the completion of the final product
12 in the last operation or stage of production in the series; and
13 further, for purposes of exemption (5), photoprocessing is
14 deemed to be a manufacturing process of tangible personal
15 property for wholesale or retail sale; (2) "assembling process"
16 shall mean the production of any article of tangible personal
17 property, whether such article is a finished product or an
18 article for use in the process of manufacturing or assembling a
19 different article of tangible personal property, by the
20 combination of existing materials in a manner commonly regarded
21 as assembling which results in a material of a different form,
22 use or name; (3) "machinery" shall mean major mechanical
23 machines or major components of such machines contributing to a
24 manufacturing or assembling process; and (4) "equipment" shall
25 include any independent device or tool separate from any
26 machinery but essential to an integrated manufacturing or

1 assembly process; including computers used primarily in a
2 manufacturer's computer assisted design, computer assisted
3 manufacturing (CAD/CAM) system; or any subunit or assembly
4 comprising a component of any machinery or auxiliary, adjunct
5 or attachment parts of machinery, such as tools, dies, jigs,
6 fixtures, patterns and molds; or any parts which require
7 periodic replacement in the course of normal operation; but
8 shall not include hand tools. Equipment includes chemicals or
9 chemicals acting as catalysts but only if the chemicals or
10 chemicals acting as catalysts effect a direct and immediate
11 change upon a product being manufactured or assembled for
12 wholesale or retail sale or lease. The purchaser of such
13 machinery and equipment who has an active resale registration
14 number shall furnish such number to the seller at the time of
15 purchase. The user of such machinery and equipment and tools
16 without an active resale registration number shall prepare a
17 certificate of exemption for each transaction stating facts
18 establishing the exemption for that transaction, which
19 certificate shall be available to the Department for inspection
20 or audit. The Department shall prescribe the form of the
21 certificate.

22 Any informal rulings, opinions or letters issued by the
23 Department in response to an inquiry or request for any opinion
24 from any person regarding the coverage and applicability of
25 exemption (5) to specific devices shall be published,
26 maintained as a public record, and made available for public

1 inspection and copying. If the informal ruling, opinion or
2 letter contains trade secrets or other confidential
3 information, where possible the Department shall delete such
4 information prior to publication. Whenever such informal
5 rulings, opinions, or letters contain any policy of general
6 applicability, the Department shall formulate and adopt such
7 policy as a rule in accordance with the provisions of the
8 Illinois Administrative Procedure Act.

9 On and after July 1, 1987, no entity otherwise eligible
10 under exemption (3) of this Section shall make tax-free
11 purchases unless it has an active exemption identification
12 number issued by the Department.

13 The purchase, employment and transfer of such tangible
14 personal property as newsprint and ink for the primary purpose
15 of conveying news (with or without other information) is not a
16 purchase, use or sale of service or of tangible personal
17 property within the meaning of this Act.

18 "Serviceman" means any person who is engaged in the
19 occupation of making sales of service.

20 "Sale at retail" means "sale at retail" as defined in the
21 Retailers' Occupation Tax Act.

22 "Supplier" means any person who makes sales of tangible
23 personal property to servicemen for the purpose of resale as an
24 incident to a sale of service.

25 "Serviceman maintaining a place of business in this State",
26 or any like term, means and includes any serviceman:

1 (1) having or maintaining within this State, directly
2 or by a subsidiary, an office, distribution house, sales
3 house, warehouse or other place of business, or any agent
4 or other representative operating within this State under
5 the authority of the serviceman or its subsidiary,
6 irrespective of whether such place of business or agent or
7 other representative is located here permanently or
8 temporarily, or whether such serviceman or subsidiary is
9 licensed to do business in this State;

10 (1.1) having a contract with a person located in this
11 State under which the person, for a commission or other
12 consideration based on the sale of service by the
13 serviceman, directly or indirectly refers potential
14 customers to the serviceman by providing to the potential
15 customers a promotional code or other mechanism that allows
16 the serviceman to track purchases referred by such persons.
17 Examples of mechanisms that allow the serviceman to track
18 purchases referred by such persons include but are not
19 limited to the use of a link on the person's Internet
20 website, promotional codes distributed through the
21 person's hand-delivered or mailed material, and
22 promotional codes distributed by the person through radio
23 or other broadcast media. The provisions of this paragraph
24 (1.1) shall apply only if the cumulative gross receipts
25 from sales of service by the serviceman to customers who
26 are referred to the serviceman by all persons in this State

1 under such contracts exceed \$10,000 during the preceding 4
2 quarterly periods ending on the last day of March, June,
3 September, and December; a serviceman meeting the
4 requirements of this paragraph (1.1) shall be presumed to
5 be maintaining a place of business in this State but may
6 rebut this presumption by submitting proof that the
7 referrals or other activities pursued within this State by
8 such persons were not sufficient to meet the nexus
9 standards of the United States Constitution during the
10 preceding 4 quarterly periods;

11 (1.2) beginning July 1, 2011, having a contract with a
12 person located in this State under which:

13 (A) the serviceman sells the same or substantially
14 similar line of services as the person located in this
15 State and does so using an identical or substantially
16 similar name, trade name, or trademark as the person
17 located in this State; and

18 (B) the serviceman provides a commission or other
19 consideration to the person located in this State based
20 upon the sale of services by the serviceman.

21 The provisions of this paragraph (1.2) shall apply only if
22 the cumulative gross receipts from sales of service by the
23 serviceman to customers in this State under all such
24 contracts exceed \$10,000 during the preceding 4 quarterly
25 periods ending on the last day of March, June, September,
26 and December;

1 (2) soliciting orders for tangible personal property
2 by means of a telecommunication or television shopping
3 system (which utilizes toll free numbers) which is intended
4 by the retailer to be broadcast by cable television or
5 other means of broadcasting, to consumers located in this
6 State;

7 (3) pursuant to a contract with a broadcaster or
8 publisher located in this State, soliciting orders for
9 tangible personal property by means of advertising which is
10 disseminated primarily to consumers located in this State
11 and only secondarily to bordering jurisdictions;

12 (4) soliciting orders for tangible personal property
13 by mail if the solicitations are substantial and recurring
14 and if the retailer benefits from any banking, financing,
15 debt collection, telecommunication, or marketing
16 activities occurring in this State or benefits from the
17 location in this State of authorized installation,
18 servicing, or repair facilities;

19 (5) being owned or controlled by the same interests
20 which own or control any retailer engaging in business in
21 the same or similar line of business in this State;

22 (6) having a franchisee or licensee operating under its
23 trade name if the franchisee or licensee is required to
24 collect the tax under this Section;

25 (7) pursuant to a contract with a cable television
26 operator located in this State, soliciting orders for

1 tangible personal property by means of advertising which is
2 transmitted or distributed over a cable television system
3 in this State;

4 (8) engaging in activities in Illinois, which
5 activities in the state in which the supply business
6 engaging in such activities is located would constitute
7 maintaining a place of business in that state; or

8 (9) beginning October 1, 2018, making sales of service
9 to purchasers in Illinois from outside of Illinois if:

10 (A) the cumulative gross receipts from sales of
11 service to purchasers in Illinois are \$100,000 or more;

12 or

13 (B) the serviceman enters into 200 or more separate
14 transactions for sales of service to purchasers in
15 Illinois.

16 The serviceman shall determine on a quarterly basis,
17 ending on the last day of March, June, September, and
18 December, whether he or she meets the criteria of either
19 subparagraph (A) or (B) of this paragraph (9) for the
20 preceding 12-month period. If the serviceman meets the
21 criteria of either subparagraph (A) or (B) for a 12-month
22 period, he or she is considered a serviceman maintaining a
23 place of business in this State and is required to collect
24 and remit the tax imposed under this Act and file returns
25 for one year. At the end of that one-year period, the
26 serviceman shall determine whether the serviceman met the

1 criteria of either subparagraph (A) or (B) during the
2 preceding 12-month period. If the serviceman met the
3 criteria in either subparagraph (A) or (B) for the
4 preceding 12-month period, he or she is considered a
5 serviceman maintaining a place of business in this State
6 and is required to collect and remit the tax imposed under
7 this Act and file returns for the subsequent year. If at
8 the end of a one-year period a serviceman that was required
9 to collect and remit the tax imposed under this Act
10 determines that he or she did not meet the criteria in
11 either subparagraph (A) or (B) during the preceding
12 12-month period, the serviceman subsequently shall
13 determine on a quarterly basis, ending on the last day of
14 March, June, September, and December, whether he or she
15 meets the criteria of either subparagraph (A) or (B) for
16 the preceding 12-month period.

17 Beginning January 1, 2020, neither the gross receipts
18 from nor the number of separate transactions for sales of
19 service to purchasers in Illinois that a serviceman makes
20 through a marketplace facilitator and for which the
21 serviceman has received a certification from the
22 marketplace facilitator pursuant to Section 2d of this Act
23 shall be included for purposes of determining whether he or
24 she has met the thresholds of this paragraph (9).

25 (10) Beginning January 1, 2020, a marketplace
26 facilitator, as defined in Section 2d of this Act.

1 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
2 100-587, eff. 6-4-18; 100-863, eff. 8-14-18.)

3 (35 ILCS 110/2d new)

4 Sec. 2d. Marketplace facilitators and marketplace
5 servicemen.

6 (a) Definitions. For purposes of this Section:

7 "Affiliate" means a person that, with respect to another
8 person: (i) has a direct or indirect ownership interest of more
9 than 5% in the other person; or (ii) is related to the other
10 person because a third person, or group of third persons who
11 are affiliated with each other as defined in this subsection,
12 holds a direct or indirect ownership interest of more than 5%
13 in the related person.

14 "Marketplace" means a physical or electronic place, forum,
15 platform, application or other method by which a marketplace
16 serviceman makes or offers to make sales of service.

17 "Marketplace facilitator" means a person who, pursuant to
18 an agreement with a marketplace serviceman, facilitates sales
19 of service by that marketplace serviceman. A person facilitates
20 a sale of service by, directly or indirectly through one or
21 more affiliates, doing both of the following: (i) listing or
22 otherwise making available a sale of service of the marketplace
23 serviceman through a marketplace owned or operated by the
24 marketplace facilitator; and (ii) processing sales of service
25 for, or payments for sales of service by, marketplace

1 servicemen.

2 "Marketplace serviceman" means a person that makes or
3 offers to make a sale of service through a marketplace.

4 (b) Beginning January 1, 2020, a marketplace facilitator
5 who meets either of the following criteria is considered the
6 serviceman for each sale of service made on the marketplace:

7 (1) the cumulative gross receipts from sales of service
8 to purchasers in Illinois by the marketplace facilitator
9 and by marketplace servicemen are \$100,000 or more; or

10 (2) the marketplace facilitator and marketplace
11 servicemen cumulatively enter into 200 or more separate
12 transactions for the sale of service to purchasers in
13 Illinois.

14 A marketplace facilitator shall determine on a quarterly
15 basis, ending on the last day of March, June, September, and
16 December, whether he or she meets the criteria of either
17 paragraph (1) or (2) of this subsection (b) for the preceding
18 12-month period. If the marketplace facilitator meets the
19 criteria of either paragraph (1) or (2) for a 12-month period,
20 he or she is considered a serviceman maintaining a place of
21 business in this State and is required to collect and remit the
22 tax imposed under this Act and file returns for one year. At
23 the end of that one-year period, the marketplace facilitator
24 shall determine whether the marketplace facilitator met the
25 criteria of either paragraph (1) or (2) during the preceding
26 12-month period. If the marketplace facilitator met the

1 criteria in either paragraph (1) or (2) for the preceding
2 12-month period, he or she is considered a serviceman
3 maintaining a place of business in this State and is required
4 to collect and remit the tax imposed under this Act and file
5 returns for the subsequent year. If, at the end of a one-year
6 period, a marketplace facilitator that was required to collect
7 and remit the tax imposed under this Act determines that he or
8 she did not meet the criteria in either paragraph (1) or (2)
9 during the preceding 12-month period, the marketplace
10 facilitator shall subsequently determine on a quarterly basis,
11 ending on the last day of March, June, September, and December,
12 whether he or she meets the criteria of either paragraph (1) or
13 (2) for the preceding 12-month period.

14 (c) A marketplace facilitator that meets either of the
15 thresholds in subsection (b) of this Section is considered the
16 serviceman for each sale of service made through its
17 marketplace and is liable for collecting and remitting the tax
18 under this Act on all such sales. The marketplace facilitator
19 has all the rights and duties, and is required to comply with
20 the same requirements and procedures, as all other servicemen
21 maintaining a place of business in this State who are
22 registered or who are required to be registered to collect and
23 remit the tax imposed by this Act.

24 (d) A marketplace facilitator shall:

25 (1) certify to each marketplace serviceman that the
26 marketplace facilitator assumes the rights and duties of a

1 serviceman under this Act with respect to sales of service
2 made by the marketplace serviceman through the
3 marketplace; and

4 (2) collect taxes imposed by this Act as required by
5 Section 3-40 of this Act for sales of service made through
6 the marketplace.

7 (e) A marketplace serviceman shall retain books and records
8 for all sales of service made through a marketplace in
9 accordance with the requirements of Section 11.

10 (f) A marketplace serviceman shall furnish to the
11 marketplace facilitator information that is necessary for the
12 marketplace facilitator to correctly collect and remit taxes
13 for a sale of service. The information may include a
14 certification that an item transferred incident to a sale of
15 service under this Act is taxable, not taxable, exempt from
16 taxation, or taxable at a specified rate. A marketplace
17 serviceman shall be held harmless for liability for the tax
18 imposed under this Act when a marketplace facilitator fails to
19 correctly collect and remit tax after having been provided with
20 information by a marketplace serviceman to correctly collect
21 and remit taxes imposed under this Act.

22 (g) Except as provided in subsection (h), if the
23 marketplace facilitator demonstrates to the satisfaction of
24 the Department that its failure to correctly collect and remit
25 tax on a sale of service resulted from the marketplace
26 facilitator's good faith reliance on incorrect or insufficient

1 information provided by a marketplace serviceman, it shall be
2 relieved of liability for the tax on that sale of service. In
3 this case, a marketplace serviceman is liable for any resulting
4 tax due.

5 (h) A marketplace facilitator and marketplace serviceman
6 that are affiliates, as defined by subsection (a), are jointly
7 and severally liable for tax liability resulting from a sale of
8 service made by the affiliated marketplace serviceman through
9 the marketplace.

10 (i) This Section does not affect the tax liability of a
11 purchaser under this Act.

12 (j) No acts or omissions regarding the charging of taxes
13 under this Act shall be the basis for filing an action by a
14 private person under the Illinois False Claims Act. The
15 Department shall have the sole authority to bring an
16 administrative action resulting from information provided by
17 any person alleging a false claim, or alleging that a person
18 has made, used, or caused to be made or used, a false record or
19 statement material to a false claim, as defined in Section 3 of
20 the Illinois False Claims Act, pertaining to any tax collected,
21 or required to be collected, by a marketplace facilitator under
22 this Act. In addition, a court may not certify an action
23 brought against a marketplace facilitator concerning this
24 Section as a class action.

25 (k) The Department may adopt rules for the administration
26 and enforcement of the provisions of this Section.

1 Section 10-35. The Tax Delinquency Amnesty Act is amended
2 by changing Section 10 as follows:

3 (35 ILCS 745/10)

4 Sec. 10. Amnesty program. The Department shall establish an
5 amnesty program for all taxpayers owing any tax imposed by
6 reason of or pursuant to authorization by any law of the State
7 of Illinois and collected by the Department.

8 The amnesty program shall be for a period from October 1,
9 2003 through November 15, 2003 and for a period beginning on
10 October 1, 2010 and ending November 8, 2010 and for a period
11 beginning on October 1, 2019 and ending on November 15, 2019.

12 The amnesty program shall provide that, upon payment by a
13 taxpayer of all taxes due from that taxpayer to the State of
14 Illinois for any taxable period ending (i) after June 30, 1983
15 and prior to July 1, 2002 for the tax amnesty period occurring
16 from October 1, 2003 through November 15, 2003, ~~and~~ (ii) after
17 June 30, 2002 and prior to July 1, 2009 for the tax amnesty
18 period beginning on October 1, 2010 through November 8, 2010,
19 and (iii) after June 30, 2011 and prior to July 1, 2018 for the
20 tax amnesty period beginning on October 1, 2019 through
21 November 15, 2019, the Department shall abate and not seek to
22 collect any interest or penalties that may be applicable and
23 the Department shall not seek civil or criminal prosecution for
24 any taxpayer for the period of time for which amnesty has been

1 granted to the taxpayer. Failure to pay all taxes due to the
2 State for a taxable period shall invalidate any amnesty granted
3 under this Act. Amnesty shall be granted only if all amnesty
4 conditions are satisfied by the taxpayer.

5 Amnesty shall not be granted to taxpayers who are a party
6 to any criminal investigation or to any civil or criminal
7 litigation that is pending in any circuit court or appellate
8 court or the Supreme Court of this State for nonpayment,
9 delinquency, or fraud in relation to any State tax imposed by
10 any law of the State of Illinois.

11 Participation in an amnesty program shall not preclude a
12 taxpayer from claiming a refund for an overpayment of tax on an
13 issue unrelated to the issues for which the taxpayer claimed
14 amnesty or for an overpayment of tax by taxpayers estimating a
15 non-final liability for the amnesty program pursuant to Section
16 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)).

17 Voluntary payments made under this Act shall be made by
18 cash, check, guaranteed remittance, or ACH debit.

19 The Department shall adopt rules as necessary to implement
20 the provisions of this Act.

21 Except as otherwise provided in this Section, all money
22 collected under this Act that would otherwise be deposited into
23 the General Revenue Fund shall be deposited as follows: (i)
24 one-half into the Common School Fund; (ii) one-half into the
25 General Revenue Fund. Two percent of all money collected under
26 this Act shall be deposited by the State Treasurer into the Tax

1 Compliance and Administration Fund and, subject to
2 appropriation, shall be used by the Department to cover costs
3 associated with the administration of this Act.

4 (Source: P.A. 96-1435, eff. 8-16-10.)

5 Section 10-40. The Health Maintenance Organization Act is
6 amended by changing Section 5-5 and by adding Section 5-10 as
7 follows:

8 (215 ILCS 125/5-5) (from Ch. 111 1/2, par. 1413)

9 Sec. 5-5. Suspension, revocation or denial of
10 certification of authority. The Director may suspend or revoke
11 any certificate of authority issued to a health maintenance
12 organization under this Act or deny an application for a
13 certificate of authority if he finds any of the following:

14 (a) The health maintenance organization is operating
15 significantly in contravention of its basic organizational
16 document, its health care plan, or in a manner contrary to that
17 described in any information submitted under Section 2-1 or
18 4-12.

19 (b) The health maintenance organization issues contracts
20 or evidences of coverage or uses a schedule of charges for
21 health care services that do not comply with the requirement of
22 Section 2-1 or 4-12.

23 (c) The health care plan does not provide or arrange for
24 basic health care services, except as provided in Section 4-13

1 concerning mental health services for clients of the Department
2 of Children and Family Services.

3 (d) The Director of Public Health certifies to the Director
4 that (1) the health maintenance organization does not meet the
5 requirements of Section 2-2 or (2) the health maintenance
6 organization is unable to fulfill its obligations to furnish
7 health care services as required under its health care plan.
8 The Department of Public Health shall promulgate by rule,
9 pursuant to the Illinois Administrative Procedure Act, the
10 precise standards used for determining what constitutes a
11 material misrepresentation, what constitutes a material
12 violation of a contract or evidence of coverage, or what
13 constitutes good faith with regard to certification under this
14 paragraph.

15 (e) The health maintenance organization is no longer
16 financially responsible and may reasonably be expected to be
17 unable to meet its obligations to enrollees or prospective
18 enrollees.

19 (f) The health maintenance organization, or any person on
20 its behalf, has advertised or merchandised its services in an
21 untrue, misrepresentative, misleading, deceptive, or unfair
22 manner.

23 (g) The continued operation of the health maintenance
24 organization would be hazardous to its enrollees.

25 (h) The health maintenance organization has neglected to
26 correct, within the time prescribed by subsection (c) of

1 Section 2-4, any deficiency occurring due to the organization's
2 prescribed minimum net worth or special contingent reserve
3 being impaired.

4 (i) The health maintenance organization has otherwise
5 failed to substantially comply with this Act.

6 (j) The health maintenance organization has failed to meet
7 the requirements for issuance of a certificate of authority set
8 forth in Section 2-2.

9 When the certificate of authority of a health maintenance
10 organization is revoked, the organization shall proceed,
11 immediately following the effective date of the order of
12 revocation, to wind up its affairs and shall conduct no further
13 business except as may be essential to the orderly conclusion
14 of the affairs of the organization. The Director may permit
15 further operation of the organization that he finds to be in
16 the best interest of enrollees to the end that the enrollees
17 will be afforded the greatest practical opportunity to obtain
18 health care services.

19 (k) The health maintenance organization has failed to pay
20 any assessment due under Article V-H of the Public Aid Code for
21 60 days following the due date of the payment (as extended by
22 any grace period granted).

23 (Source: P.A. 88-487.)

24 (215 ILCS 125/5-10 new)

25 Sec. 5-10. Managed care organizations; revenue data.

1 (a) No managed care organization shall pass the cost of the
2 assessment imposed pursuant to Article V-H of the Public Aid
3 Code on to consumers as a discrete addition to their premiums.

4 (b) The Department shall provide the Department of
5 Healthcare and Family Services with member months and premium
6 revenue data needed for implementing the assessment imposed
7 under Article V-H of the Public Aid Code.

8 Section 10-45. The Illinois Public Aid Code is amended by
9 adding the Article V-H as follows:

10 (305 ILCS 5/Art. V-H heading new)

11 ARTICLE V-H. MANAGED CARE ORGANIZATION PROVIDER ASSESSMENT.

12 (305 ILCS 5/5H-1 new)

13 Sec. 5H-1. Definitions. As used in this Article:

14 "Base year" means the 12-month period from January 1, 2018
15 to December 31, 2018.

16 "Department" means the Department of Healthcare and Family
17 Services.

18 "Federal employee health benefit" means the program of
19 health benefits plans, as defined in 5 U.S.C. 8901, available
20 to federal employees under 5 U.S.C. 8901 to 8914.

21 "Fund" means the Healthcare Provider Relief Fund.

22 "Managed care organization" means an entity operating
23 under a certificate of authority issued pursuant to the Health

1 Maintenance Organization Act or as a Managed Care Community
2 Network pursuant to Section 5-11 of the Public Aid Code.

3 "Medicaid managed care organization" means a managed care
4 organization under contract with the Department to provide
5 services to recipients of benefits in the medical assistance
6 program pursuant to Article V of the Public Aid Code, the
7 Children's Health Insurance Program Act, or the Covering ALL
8 KIDS Health Insurance Act. It does not include contracts the
9 same entity or an affiliated entity has for other business.

10 "Medicare" means the federal Medicare program established
11 under Title XVIII of the federal Social Security Act.

12 "Member months" means the aggregate total number of months
13 all individuals are enrolled for coverage in a Managed Care
14 Organization during the base year. Member months are determined
15 by the Department for Medicaid Managed Care Organizations based
16 on enrollment data in its Medicaid Management Information
17 System and by the Department of Insurance for other Managed
18 Care Organizations based on required filings with the
19 Department of Insurance. Member months do not include months
20 individuals are enrolled in a Limited Health Services
21 Organization, including stand-alone dental or vision plans, a
22 Medicare Advantage Plan, a Medicare Supplement Plan, a Medicaid
23 Medicare Alignment Initiate Plan pursuant to a Memorandum of
24 Understanding between the Department and the Federal Centers
25 for Medicare and Medicaid Services or a Federal Employee Health
26 Benefits Plan.

1 (305 ILCS 5/5H-2 new)

2 Sec. 5H-2. Federal waivers. The Department shall request a
3 waiver from the federal Centers for Medicare and Medicaid
4 Services of the broad-based and uniformity provisions of
5 Section 1903(w)(3)(B) and (C) of Title XIX of the Social
6 Security Act, 42 U.S.C. 1396b, relating to the assessment
7 imposed under this Article. The assessment required pursuant to
8 Section 5H-3 shall not be due and payable until such waiver has
9 been approved and all other federal requirements necessary to
10 obtain federal financial participation have been approved by
11 the Centers for Medicare and Medicaid Services.

12 (305 ILCS 5/5H-3 new)

13 Sec. 5H-3. Managed care assessment.

14 (a) For State Fiscal year 2020 through State Fiscal Year
15 2025, there is imposed upon managed care organization member
16 months an assessment, calculated on base year data, as set
17 forth below for the appropriate tier:

18 (1) Tier 1: \$60.20 per member month.

19 (2) Tier 2: \$1.20 per member month.

20 (3) Tier 3: \$2.40 per member month.

21 (b) The tiers are established as follows:

22 (1) Tier 1 includes the first 4,195,000 member months
23 in a Medicaid managed care organization for the base year;

24 (ii) Tier 2 includes member months over 4,195,000 in a

1 Medicaid managed care organization during the base year;
2 and

3 (iv) Tier 3 includes member months during the base year
4 in a managed care organization that is not a Medicaid
5 managed care organization.

6 (c) For State fiscal year 2020 through State fiscal year
7 2025, the Department may by rule adjust rates or tier
8 parameters or both in order to maximize the revenue generated
9 by the assessment consistent with federal regulations and to
10 meet federal statistical tests necessary for federal financial
11 participation. Any upward adjustment to the Tier 3 rate shall
12 be the minimum necessary to meet federal statistical tests.

13 (305 ILCS 5/5H-4 new)

14 Sec. 5H-4. Payment of assessment.

15 (a) The assessment payable pursuant to Section 5H-3 shall
16 be due and payable in monthly installments, each equaling
17 one-twelfth of the assessment for the year, on the first State
18 business day of each month.

19 (b) If the approval of the waivers required under Section
20 5H-2 is delayed beyond the start of State fiscal year 2020,
21 then the first installment shall be due on the first business
22 day of the first month that begins more than 15 days after the
23 date of such approval. In the event approval results in
24 installments beginning after July 1, 2019, the amount of each
25 installment for that fiscal year shall equal the full amount of

1 the annual assessment divided by the number of payments that
2 will be paid in fiscal year 2020.

3 (c) The Department shall notify each managed care
4 organization of its annual fiscal year 2020 assessment and the
5 installment due dates no later than 30 days prior to the first
6 installment due date and the annual assessment and due dates
7 for each subsequent year at least 30 days prior to the start of
8 each fiscal year.

9 (d) Proceeds from the assessment levied pursuant to Section
10 5H-3 shall be deposited into the Fund.

11 (305 ILCS 5/5H-5 new)

12 Sec. 5H-5. Liability or resultant entities. In the event of
13 a merger, acquisition, or any similar transaction involving
14 entities subject to the assessment under this Article, the
15 resultant entity shall be responsible for the full amount of
16 the assessment for all entities involved in the transaction
17 with the member months allotted to tiers as they were prior to
18 the transaction and no member months shall change tiers as a
19 result of any transaction. A managed care organization that
20 ceases doing business in the State during any fiscal year shall
21 be liable only for the monthly installments due in months that
22 they operated in the State. The Department shall by rule
23 establish a methodology to set the assessment base member
24 months for a managed care organization that begins operating in
25 the State at any time after 2018. Nothing in this Section shall

1 be construed to limit authority granted in subsection (c) of
2 Section 5H-3.

3 (305 ILCS 5/5H-6 new)

4 Sec. 5H-6. Recordkeeping; penalties.

5 (a) A managed care organization that is liable for the
6 assessment under this Article shall keep accurate and complete
7 records and pertinent documents as may be required by the
8 Department. Records required by the Department shall be
9 retained for a period of 4 years after the assessment imposed
10 under this Act to which the records apply is due or as
11 otherwise provided by law. The Department or the Department of
12 Insurance may audit all records necessary to ensure compliance
13 with this Article and make adjustments to assessment amounts
14 previously calculated based on the results of any such audit.

15 (b) If a managed care organization fails to make a payment
16 due under this Article in a timely fashion, they shall pay an
17 additional penalty of 5% of the amount of the installment not
18 paid on or before the due date, or any grace period granted,
19 plus 5% of the portion thereof remaining unpaid on the last day
20 of each 30-day period thereafter. The Department is authorized
21 to grant grace periods of up to 30 days upon request of a
22 managed care organization for good cause due to financial or
23 other difficulties, as determined by the Department. If a
24 managed care organization fails to make a payment within 60
25 days after the due date the Department shall additionally

1 impose a contractual sanction allowed against a Medicaid
2 managed care organization and may terminate any such contract.
3 The Department of Insurance shall take action against the
4 certificate of authority of a non-Medicaid managed care
5 organization that fails to pay an installment within 60 days
6 after the due date.

7 (305 ILCS 5/5H-7 new)

8 Sec. 5H-7. Rulemaking. The Department may by rule modify or
9 make adjustments to any methodology, assessment amount,
10 assessment tier, or other similar provision specified in this
11 Article, including broadening the tax base in subsection (a) of
12 Section 5H-3, to the extent necessary to meet the requirements
13 of federal law or regulations, obtain federal approval, or to
14 ensure federal financial participation is available. However,
15 upward adjustments to Tier 3 rates shall be the minimum
16 necessary to meet federal statistical tests to receive federal
17 financial participation. The Department shall adopt rules to
18 implement this Article under the Illinois Administrative
19 Procedure Act.

20 (305 ILCS 5/5H-8 new)

21 Sec. 5H-8. Duties of the Department.

22 (a) The Department shall ensure that rates to Medicaid
23 managed care organizations are actuarially sound including
24 appropriate incorporation of assessments under this Article,

1 other taxes and administrative expenses, including
2 standardization of processes, and cost of medical care.

3 (b) The Department shall pay to each Medicaid managed care
4 organization the amount required to be included in its rates
5 due to the assessment under this Article in order to ensure
6 actuarial soundness within 10 business days of receipt of each
7 assessment payment from the Medicaid managed care
8 organization. The Department shall extend the deadline for any
9 assessment payment due after the initial assessment payment if
10 the payment to the managed care organizations under this
11 subsection for the previous assessment payment has not been
12 paid. Such extension shall extend until 7 business days after
13 receipt by the managed care organization of the late payment
14 under this subsection.

15 (c) Reimbursement of assessments paid under this Article
16 shall not be required to count as revenue towards any
17 calculation of the managed care organization's medical loss
18 ratio, net worth, risk based capital or other deposit
19 requirements as may otherwise be required under the Insurance
20 Code. Such reimbursements will be considered revenue in
21 calculating the 6% limit under 42 U.S.C. 433.68(f) (3).

22 (d) The Department shall include in its annual report,
23 beginning with its fiscal year 2020 report, and every year
24 thereafter, information on the revenues collected from this
25 assessment, the federal funds drawn based on those revenues,
26 the rates set in Section 5H-3 or any alterations thereof by

1 administrative rule, and other impacts this gross revenue has
2 had on the Medicaid program.

3 Section 10-50. The Franchise Tax and License Fee Amnesty
4 Act of 2007 is amended by changing Section 5-10 as follows:

5 (805 ILCS 8/5-10)

6 Sec. 5-10. Amnesty program. The Secretary shall establish
7 an amnesty program for all taxpayers owing any franchise tax or
8 license fee imposed by Article XV of the Business Corporation
9 Act of 1983. The amnesty program shall be for a period from
10 February 1, 2008 through March 15, 2008. The amnesty program
11 shall also be for a period between October 1, 2019 and November
12 15, 2019, and shall apply to franchise tax or license fee
13 liabilities for any tax period ending after March 15, 2008 and
14 on or before June 30, 2019. The amnesty program shall provide
15 that, upon payment by a taxpayer of all franchise taxes and
16 license fees due from that taxpayer to the State of Illinois
17 for any taxable period, the Secretary shall abate and not seek
18 to collect any interest or penalties that may be applicable,
19 and the Secretary shall not seek civil or criminal prosecution
20 for any taxpayer for the period of time for which amnesty has
21 been granted to the taxpayer. Failure to pay all taxes due to
22 the State for a taxable period shall not invalidate any amnesty
23 granted under this Act with respect to the taxes paid pursuant
24 to the amnesty program. Amnesty shall be granted only if all

1 amnesty conditions are satisfied by the taxpayer. Amnesty shall
2 not be granted to taxpayers who are a party to any criminal
3 investigation or to any civil or criminal litigation that is
4 pending in any circuit court or appellate court or the Supreme
5 Court of this State for nonpayment, delinquency, or fraud in
6 relation to any franchise tax or license fee imposed by Article
7 XV of the Business Corporation Act of 1983. Voluntary payments
8 made under this Act shall be made by check, guaranteed
9 remittance, or ACH debit. The Secretary shall adopt rules as
10 necessary to implement the provisions of this Act. Except as
11 otherwise provided in this Section, all money collected under
12 this Act that would otherwise be deposited into the General
13 Revenue Fund shall be deposited into the General Revenue Fund.
14 Two percent of all money collected under this Act shall be
15 deposited by the State Treasurer into the Franchise Tax and
16 License Fee Amnesty Administration Fund and, subject to
17 appropriation, shall be used by the Secretary to cover costs
18 associated with the administration of this Act.

19 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08.)

20 ARTICLE 99. EFFECTIVE DATE

21 Section 999. Effective date. This Act takes effect upon
22 becoming law."