

SB3334



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3334

Introduced 2/14/2020, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

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

Amends the Illinois Income Tax Act. Provides that certain sports wagering winnings are allocable to this State. Effective immediately.

LRB101 17687 HLH 67114 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 303. (a) In general. Any item of capital gain or loss,
8 and any item of income from rents or royalties from real or
9 tangible personal property, interest, dividends, and patent or
10 copyright royalties, and prizes awarded under the Illinois
11 Lottery Law, ~~and~~, for taxable years ending on or after December
12 31, 2019, wagering and gambling winnings from Illinois sources
13 as set forth in subsection (e-1) of this Section, and, for
14 taxable years ending on or after December 31, 2020, sports
15 wagering and winnings from Illinois sources as set forth in
16 subsection (e-2) of this Section, to the extent such item
17 constitutes nonbusiness income, together with any item of
18 deduction directly allocable thereto, shall be allocated by any
19 person other than a resident as provided in this Section.

20 (b) Capital gains and losses.

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

1 (2) Tangible personal property. Capital gains and
2 losses from sales or exchanges of tangible personal
3 property are allocable to this State if, at the time of
4 such sale or exchange:

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

6 (B) The taxpayer had its commercial domicile in
7 this State and was not taxable in the state in which
8 the property had its situs.

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

13 (c) Rents and royalties.

14 (1) Real property. Rents and royalties from real
15 property are allocable to this State if the property is
16 located in this State.

17 (2) Tangible personal property. Rents and royalties
18 from tangible personal property are allocable to this
19 State:

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

22 (B) In their entirety if, at the time such rents or
23 royalties were paid or accrued, the taxpayer had its
24 commercial domicile in this State and was not organized
25 under the laws of or taxable with respect to such rents
26 or royalties in the state in which the property was

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

16 (d) Patent and copyright royalties.

17 (1) Allocation. Patent and copyright royalties are
18 allocable to this State:

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

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

1 (2) Utilization.

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

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

18 (e) Illinois lottery prizes. Prizes awarded under the
19 Illinois Lottery Law are allocable to this State. Payments
20 received in taxable years ending on or after December 31, 2013,
21 from the assignment of a prize under Section 13.1 of the
22 Illinois Lottery Law are allocable to this State.

23 (e-1) Wagering and gambling winnings. Payments received in
24 taxable years ending on or after December 31, 2019 of winnings
25 from pari-mutuel wagering conducted at a wagering facility
26 licensed under the Illinois Horse Racing Act of 1975 and from

1 gambling games conducted on a riverboat or in a casino or
2 organization gaming facility licensed under the Illinois
3 Gambling Act are allocable to this State.

4 (e-2) Sports wagering and winnings. Payments received in
5 taxable years ending on or after December 31, 2020 of winnings
6 from sports wagering conducted in accordance with the Sports
7 Wagering Act are allocable to this State.

8 (e-5) Unemployment benefits. Unemployment benefits paid by
9 the Illinois Department of Employment Security are allocable to
10 this State.

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

14 (1) In that state he is subject to a net income tax, a
15 franchise tax measured by net income, a franchise tax for
16 the privilege of doing business, or a corporate stock tax;
17 or

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

21 (g) Cross references.

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

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

26 (Source: P.A. 101-31, eff. 6-28-19.)

1 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

23 (1) Property factor.

24 (A) The property factor is a fraction, the numerator of
25 which is the average value of the person's real and

1 tangible personal property owned or rented and used in the
2 trade or business in this State during the taxable year and
3 the denominator of which is the average value of all the
4 person's real and tangible personal property owned or
5 rented and used in the trade or business during the taxable
6 year.

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

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

18 (2) Payroll factor.

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

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

25 (i) The individual's service is performed entirely
26 within this State;

1 (ii) The individual's service is performed both
2 within and without this State, but the service
3 performed without this State is incidental to the
4 individual's service performed within this State; or

5 (iii) For tax years ending prior to December 31,
6 2020, some of the service is performed within this
7 State and either the base of operations, or if there is
8 no base of operations, the place from which the service
9 is directed or controlled is within this State, or the
10 base of operations or the place from which the service
11 is directed or controlled is not in any state in which
12 some part of the service is performed, but the
13 individual's residence is in this State. For tax years
14 ending on or after December 31, 2020, compensation is
15 paid in this State if some of the individual's service
16 is performed within this State, the individual's
17 service performed within this State is nonincidental
18 to the individual's service performed without this
19 State, and the individual's service is performed
20 within this State for more than 30 working days during
21 the tax year. The amount of compensation paid in this
22 State shall include the portion of the individual's
23 total compensation for services performed on behalf of
24 his or her employer during the tax year which the
25 number of working days spent within this State during
26 the tax year bears to the total number of working days

1 spent both within and without this State during the tax
2 year. For purposes of this paragraph:

3 (a) The term "working day" means all days
4 during the tax year in which the individual
5 performs duties on behalf of his or her employer.
6 All days in which the individual performs no duties
7 on behalf of his or her employer (e.g., weekends,
8 vacation days, sick days, and holidays) are not
9 working days.

10 (b) A working day is spent within this State
11 if:

12 (1) the individual performs service on
13 behalf of the employer and a greater amount of
14 time on that day is spent by the individual
15 performing duties on behalf of the employer
16 within this State, without regard to time spent
17 traveling, than is spent performing duties on
18 behalf of the employer without this State; or

19 (2) the only service the individual
20 performs on behalf of the employer on that day
21 is traveling to a destination within this
22 State, and the individual arrives on that day.

23 (c) Working days spent within this State do not
24 include any day in which the employee is performing
25 services in this State during a disaster period
26 solely in response to a request made to his or her

1 employer by the government of this State, by any
2 political subdivision of this State, or by a person
3 conducting business in this State to perform
4 disaster or emergency-related services in this
5 State. For purposes of this item (c):

6 "Declared State disaster or emergency"
7 means a disaster or emergency event (i) for
8 which a Governor's proclamation of a state of
9 emergency has been issued or (ii) for which a
10 Presidential declaration of a federal major
11 disaster or emergency has been issued.

12 "Disaster period" means a period that
13 begins 10 days prior to the date of the
14 Governor's proclamation or the President's
15 declaration (whichever is earlier) and extends
16 for a period of 60 calendar days after the end
17 of the declared disaster or emergency period.

18 "Disaster or emergency-related services"
19 means repairing, renovating, installing,
20 building, or rendering services or conducting
21 other business activities that relate to
22 infrastructure that has been damaged,
23 impaired, or destroyed by the declared State
24 disaster or emergency.

25 "Infrastructure" means property and
26 equipment owned or used by a public utility,

1 communications network, broadband and internet
2 service provider, cable and video service
3 provider, electric or gas distribution system,
4 or water pipeline that provides service to more
5 than one customer or person, including related
6 support facilities. "Infrastructure" includes,
7 but is not limited to, real and personal
8 property such as buildings, offices, power
9 lines, cable lines, poles, communications
10 lines, pipes, structures, and equipment.

11 (iv) Compensation paid to nonresident professional
12 athletes.

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

23 (b) Travel days. Travel days that do not involve
24 either a game, practice, team meeting, or other similar
25 team event are not considered duty days spent in this
26 State. However, such travel days are considered in the

1 total duty days spent both within and without this
2 State.

3 (c) Definitions. For purposes of this subpart
4 (iv):

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

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

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

1 scheduled to compete, occurs during more than one
2 tax year.

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

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

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

1 this period shall end on the day that person
2 leaves the team. Where a person switches teams
3 during a taxable year, a separate duty-day
4 calculation shall be made for the period the
5 person was with each team.

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

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

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

1 the taxable year for services performed:

2 (A) from the beginning of the official
3 pre-season training period through the last
4 game in which the team competes or is scheduled
5 to compete during that taxable year; and

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

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

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

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

12 (3) Sales factor.

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

17 (B) Sales of tangible personal property are in this
18 State if:

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

23 (ii) The property is shipped from an office, store,
24 warehouse, factory or other place of storage in this
25 State and either the purchaser is the United States
26 government or the person is not taxable in the state of

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

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

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

22 (ii) Place of utilization.

23 (I) A patent is utilized in a state to the
24 extent that it is employed in production,
25 fabrication, manufacturing, or other processing in
26 the state or to the extent that a patented product

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

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

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

24 (iii) If the state of utilization of an item of
25 property governed by this paragraph (B-1) cannot be
26 determined from the taxpayer's books and records or

1 from the books and records of any person related to the
2 taxpayer within the meaning of Section 267(b) of the
3 Internal Revenue Code, 26 U.S.C. 267, the gross
4 receipts attributable to that item shall be excluded
5 from both the numerator and the denominator of the
6 sales factor.

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

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

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

1 "Ancillary services" means services that are
2 associated with or incidental to the provision of
3 "telecommunications services", including, but not
4 limited to, "detailed telecommunications billing",
5 "directory assistance", "vertical service", and "voice
6 mail services".

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

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

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

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

25 "Customer Channel Termination Point" means the
26 location where the customer either inputs or receives

1 the communications.

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

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

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

13 "Mobile telecommunications service" means
14 commercial mobile radio service, as defined in Section
15 20.3 of Title 47 of the Code of Federal Regulations as
16 in effect on June 1, 1999.

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

25 "Post-paid telecommunication service" means the
26 telecommunications service obtained by making a

1 payment on a call-by-call basis either through the use
2 of a credit card or payment mechanism such as a bank
3 card, travel card, credit card, or debit card, or by
4 charge made to a telephone number which is not
5 associated with the origination or termination of the
6 telecommunications service. A post-paid calling
7 service includes telecommunications service, except a
8 prepaid wireless calling service, that would be a
9 prepaid calling service except it is not exclusively a
10 telecommunication service.

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

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

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

10 "Service address" means:

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

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

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

26 "Telecommunications service" means the electronic

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

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

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

21 (c) Tangible personal property;

22 (d) Advertising, including, but not limited
23 to, directory advertising;

24 (e) Billing and collection services provided
25 to third parties;

26 (f) Internet access service;

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

12 (h) "Ancillary services"; or

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

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

23 "Voice mail service" means an "ancillary service"
24 that enables the customer to store, send or receive
25 recorded messages. "Voice mail service" does not
26 include any "vertical services" that the customer may

1 be required to have in order to utilize the "voice mail
2 service".

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

6 (a) The call both originates and terminates in
7 this State.

8 (b) The call either originates or terminates
9 in this State and the service address is located in
10 this State.

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

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

1 this State if the purchaser's billing information
2 indicates a location in this State.

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

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

7 (b) 100% of receipts from charges for the total
8 channel mileage between each channel termination
9 point in this State.

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

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

24 (vi) Receipts from charges for ancillary services
25 for telecommunications service sold to customers at
26 retail are in this State if the customer's primary

1 place of use of telecommunications services associated
2 with those ancillary services is in this State. If the
3 seller of those ancillary services cannot determine
4 where the associated telecommunications are located,
5 then the ancillary services shall be based on the
6 location of the purchaser.

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

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

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

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

26 (d) Gross receipts from sales of

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

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

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

23 "Audience factor" means the ratio that the
24 audience or subscribers located in this State of a
25 station, a network, or a cable system bears to the
26 total audience or total subscribers for that station,

1 network, or cable system. The audience factor for film
2 or radio programming shall be determined by reference
3 to the books and records of the taxpayer or by
4 reference to published rating statistics provided the
5 method used by the taxpayer is consistently used from
6 year to year for this purpose and fairly represents the
7 taxpayer's activity in this State.

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

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

25 "Radio" or "radio programming" means the broadcast
26 on radio of any and all performances, events, or

1 productions, including, but not limited to, news,
2 sporting events, plays, stories, or other literary,
3 commercial, educational, or artistic works, either
4 live or through the use of an audio tape, disc, or any
5 other format or medium. Each episode in a series of
6 radio programming produced for radio broadcast shall
7 constitute a separate "radio programming"
8 notwithstanding that the series relates to the same
9 principal subject and is produced during one or more
10 tax periods.

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

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

1 recipients in Illinois. For purposes of this
2 paragraph, a taxpayer may determine the location
3 of the recipients of its broadcast using the
4 address of the recipient shown in its contracts
5 with the recipient or using the billing address of
6 the recipient in the taxpayer's records.

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

22 (iv) In the case where film or radio
23 programming is provided by a taxpayer that is a
24 network or station to a customer for broadcast in
25 exchange for a fee or other remuneration from that
26 customer the broadcasting service is received at

1 the location of the office of the customer from
2 which the services were ordered in the regular
3 course of the customer's trade or business.
4 Accordingly, in such a case the revenue derived by
5 the taxpayer that is included in the taxpayer's
6 Illinois numerator of the sales factor is the
7 revenue from such customers who receive the
8 broadcasting service in Illinois.

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

22 (B-8) Gross receipts from winnings under the Illinois
23 Lottery Law from the assignment of a prize under Section
24 13.1 of the Illinois Lottery Law are received in this
25 State. This paragraph (B-8) applies only to taxable years
26 ending on or after December 31, 2013.

1 (B-9) For taxable years ending on or after December 31,
2 2019, gross receipts from winnings from pari-mutuel
3 wagering conducted at a wagering facility licensed under
4 the Illinois Horse Racing Act of 1975 or from winnings from
5 gambling games conducted on a riverboat or in a casino or
6 organization gaming facility licensed under the Illinois
7 Gambling Act are in this State.

8 (B-10) For taxable years ending on or after December
9 31, 2020, gross receipts from winnings from sports wagering
10 conducted in accordance with the Sports Wagering Act are in
11 this State.

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

15 (i) The income-producing activity is performed in
16 this State; or

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

22 (C-5) For taxable years ending on or after December 31,
23 2008, sales, other than sales governed by paragraphs (B),
24 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
25 the following criteria are met:

26 (i) Sales from the sale or lease of real property

1 are in this State if the property is located in this
2 State.

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

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

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

1 of a customer during a taxable year, the customer
2 shall be deemed to be a customer in this State if
3 the billing address of the customer, as shown in
4 the records of the dealer, is in this State; or

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

14 (iv) Sales of services are in this State if the
15 services are received in this State. For the purposes
16 of this section, gross receipts from the performance of
17 services provided to a corporation, partnership, or
18 trust may only be attributed to a state where that
19 corporation, partnership, or trust has a fixed place of
20 business. If the state where the services are received
21 is not readily determinable or is a state where the
22 corporation, partnership, or trust receiving the
23 service does not have a fixed place of business, the
24 services shall be deemed to be received at the location
25 of the office of the customer from which the services
26 were ordered in the regular course of the customer's

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

11 (D) For taxable years ending on or after December 31,
12 1995, the following items of income shall not be included
13 in the numerator or denominator of the sales factor:
14 dividends; amounts included under Section 78 of the
15 Internal Revenue Code; and Subpart F income as defined in
16 Section 952 of the Internal Revenue Code. No inference
17 shall be drawn from the enactment of this paragraph (D) in
18 construing this Section for taxable years ending before
19 December 31, 1995.

20 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
21 ending on or after December 31, 1999, provided that a
22 taxpayer may elect to apply the provisions of these
23 paragraphs to prior tax years. Such election shall be made
24 in the form and manner prescribed by the Department, shall
25 be irrevocable, and shall apply to all tax years; provided
26 that, if a taxpayer's Illinois income tax liability for any

1 tax year, as assessed under Section 903 prior to January 1,
2 1999, was computed in a manner contrary to the provisions
3 of paragraphs (B-1) or (B-2), no refund shall be payable to
4 the taxpayer for that tax year to the extent such refund is
5 the result of applying the provisions of paragraph (B-1) or
6 (B-2) retroactively. In the case of a unitary business
7 group, such election shall apply to all members of such
8 group for every tax year such group is in existence, but
9 shall not apply to any taxpayer for any period during which
10 that taxpayer is not a member of such group.

11 (b) Insurance companies.

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

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

1 ending on or after December 31, 2011, shall be binding for
2 that company for that taxable year and for all subsequent
3 taxable years, and may be altered only with the written
4 permission of the Department, which shall not be
5 unreasonably withheld.

6 (c) Financial organizations.

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

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

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

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

25 (D) Interest charged to customers at places of
26 business maintained within this State for carrying

1 debit balances of margin accounts, without deduction
2 of any costs incurred in carrying such accounts; and

3 (E) Any other gross income resulting from the
4 operation as a financial organization within this
5 State.

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

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

17 (A) Adjusted Income. The adjusted income of an
18 international banking facility is its income reduced
19 by the amount of the floor amount.

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

24 (i) The numerator shall be:

25 The average aggregate, determined on a
26 quarterly basis, of the financial organization's

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

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

23 (ii) the denominator shall be the average
24 aggregate, determined on a quarterly basis, of the
25 international banking facility's loans to banks in
26 foreign countries, to foreign domiciled borrowers

1 (except where secured primarily by real estate)
2 and to foreign governments and other foreign
3 official institutions, which were recorded in its
4 financial accounts for the current taxable year.

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

22 (3) For taxable years ending on or after December 31,
23 2008, the business income of a financial organization shall
24 be apportioned to this State by multiplying such income by
25 a fraction, the numerator of which is its gross receipts
26 from sources in this State or otherwise attributable to

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

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

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

24 (iii) Interest income, commissions, fees, gains on
25 disposition, and other receipts from consumer loans
26 that are not secured by real or tangible personal

1 property are from sources in this State if the debtor
2 is a resident of this State.

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

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

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

26 (vii) Receipts from the issuance of travelers

1 checks and money orders are from sources in this State
2 if the checks and money orders are issued from a
3 location within this State.

4 (viii) Receipts from investment assets and
5 activities and trading assets and activities are
6 included in the receipts factor as follows:

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

24 (A) The receipts factor shall include the
25 amount by which interest from federal funds
26 sold and securities purchased under resale

1 agreements exceeds interest expense on federal
2 funds purchased and securities sold under
3 repurchase agreements.

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

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

19 (A) The amount of interest, dividends, net
20 gains (but not less than zero), and other
21 income from investment assets and activities
22 in the investment account to be attributed to
23 this State and included in the numerator is
24 determined by multiplying all such income from
25 such assets and activities by a fraction, the
26 numerator of which is the gross income from

1 such assets and activities which are properly
2 assigned to a fixed place of business of the
3 taxpayer within this State and the denominator
4 of which is the gross income from all such
5 assets and activities.

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

21 (C) The amount of interest, dividends,
22 gains, and other income from trading assets and
23 activities, including but not limited to
24 assets and activities in the matched book, in
25 the arbitrage book and foreign currency
26 transactions (but excluding amounts described

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

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

21 (i) the taxpayer has assigned, in the
22 regular course of its business, such asset
23 or activity on its records to a fixed place
24 of business consistent with federal or
25 state regulatory requirements;

26 (ii) such assignment on its records is

1 based upon substantive contacts of the
2 asset or activity to such fixed place of
3 business; and

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

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

1 asset or activity is properly assigned to the
2 state in which the taxpayer's commercial
3 domicile is located. For purposes of this
4 subparagraph (E), it shall be presumed,
5 subject to rebuttal, that taxpayer's
6 commercial domicile is in the state of the
7 United States or the District of Columbia to
8 which the greatest number of employees are
9 regularly connected with the management of the
10 investment or trading income or out of which
11 they are working, irrespective of where the
12 services of such employees are performed, as of
13 the last day of the taxable year.

14 (4) (Blank).

15 (5) (Blank).

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

26 (1) Receipts attributable to transactions executed on

1 a physical trading floor if that physical trading floor is
2 located in this State.

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

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

15 "Federally regulated exchange" means (i) a "registered
16 entity" within the meaning of 7 U.S.C. Section 1a(40)(A), (B),
17 or (C), (ii) an "exchange" or "clearing agency" within the
18 meaning of 15 U.S.C. Section 78c (a)(1) or (23), (iii) any such
19 entities regulated under any successor regulatory structure to
20 the foregoing, and (iv) all taxpayers who are members of the
21 same unitary business group as a federally regulated exchange,
22 determined without regard to the prohibition in Section
23 1501(a)(27) of this Act against including in a unitary business
24 group taxpayers who are ordinarily required to apportion
25 business income under different subsections of this Section;
26 provided that this subparagraph (iv) shall apply only if 50% or

1 more of the business receipts of the unitary business group
2 determined by application of this subparagraph (iv) for the
3 taxable year are attributable to the matching, execution, or
4 clearing of transactions conducted by an entity described in
5 subparagraph (i), (ii), or (iii) of this paragraph.

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

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

17 (1) Such business income (other than that derived from
18 transportation by pipeline) shall be apportioned to this
19 State by multiplying such income by a fraction, the
20 numerator of which is the revenue miles of the person in
21 this State, and the denominator of which is the revenue
22 miles of the person everywhere. For purposes of this
23 paragraph, a revenue mile is the transportation of 1
24 passenger or 1 net ton of freight the distance of 1 mile
25 for a consideration. Where a person is engaged in the
26 transportation of both passengers and freight, the

1 fraction above referred to shall be determined by means of
2 an average of the passenger revenue mile fraction and the
3 freight revenue mile fraction, weighted to reflect the
4 person's

5 (A) relative railway operating income from total
6 passenger and total freight service, as reported to the
7 Interstate Commerce Commission, in the case of
8 transportation by railroad, and

9 (B) relative gross receipts from passenger and
10 freight transportation, in case of transportation
11 other than by railroad.

12 (2) Such business income derived from transportation
13 by pipeline shall be apportioned to this State by
14 multiplying such income by a fraction, the numerator of
15 which is the revenue miles of the person in this State, and
16 the denominator of which is the revenue miles of the person
17 everywhere. For the purposes of this paragraph, a revenue
18 mile is the transportation by pipeline of 1 barrel of oil,
19 1,000 cubic feet of gas, or of any specified quantity of
20 any other substance, the distance of 1 mile for a
21 consideration.

22 (3) For taxable years ending on or after December 31,
23 2008, business income derived from providing
24 transportation services other than airline services shall
25 be apportioned to this State by using a fraction, (a) the
26 numerator of which shall be (i) all receipts from any

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

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

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

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

1 2008, business income derived from furnishing airline
2 transportation services shall be apportioned to this State
3 by multiplying such income by a fraction, the numerator of
4 which is the revenue miles of the person in this State, and
5 the denominator of which is the revenue miles of the person
6 everywhere. For purposes of this paragraph, a revenue mile
7 is the transportation of one passenger or one net ton of
8 freight the distance of one mile for a consideration. If a
9 person is engaged in the transportation of both passengers
10 and freight, the fraction above referred to shall be
11 determined by means of an average of the passenger revenue
12 mile fraction and the freight revenue mile fraction,
13 weighted to reflect the person's relative gross receipts
14 from passenger and freight airline transportation.

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

21 (f) Alternative allocation. If the allocation and
22 apportionment provisions of subsections (a) through (e) and of
23 subsection (h) do not, for taxable years ending before December
24 31, 2008, fairly represent the extent of a person's business
25 activity in this State, or, for taxable years ending on or
26 after December 31, 2008, fairly represent the market for the

1 person's goods, services, or other sources of business income,
2 the person may petition for, or the Director may, without a
3 petition, permit or require, in respect of all or any part of
4 the person's business activity, if reasonable:

5 (1) Separate accounting;

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

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

10 (4) The employment of any other method to effectuate an
11 equitable allocation and apportionment of the person's
12 business income.

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

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

18 (1) for tax years ending on or after December 31, 1998
19 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
20 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of
21 the sales factor;

22 (2) for tax years ending on or after December 31, 1999
23 and before December 31, 2000, $8 \frac{1}{3}\%$ of the property factor
24 plus $8 \frac{1}{3}\%$ of the payroll factor plus $83 \frac{1}{3}\%$ of the sales
25 factor;

26 (3) for tax years ending on or after December 31, 2000,

1 the sales factor.

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

9 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;
10 101-585, eff. 8-26-19; revised 9-12-19.)

11 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

12 Sec. 710. Withholding from lottery winnings.

13 (a) In general.

14 (1) Any person making a payment to a resident or
15 nonresident of winnings under the Illinois Lottery Law and
16 not required to withhold Illinois income tax from such
17 payment under Subsection (b) of Section 701 of this Act
18 because those winnings are not subject to Federal income
19 tax withholding, must withhold Illinois income tax from
20 such payment at a rate equal to the percentage tax rate for
21 individuals provided in subsection (b) of Section 201,
22 provided that withholding is not required if such payment
23 of winnings is less than \$1,000.

24 (2) In the case of an assignment of a lottery prize
25 under Section 13.1 of the Illinois Lottery Law, any person

1 making a payment of the purchase price after December 31,
2 2013, shall withhold from the amount of each payment at a
3 rate equal to the percentage tax rate for individuals
4 provided in subsection (b) of Section 201.

5 (3) Any person making a payment after December 31, 2019
6 to a resident or nonresident of winnings from pari-mutuel
7 wagering conducted at a wagering facility licensed under
8 the Illinois Horse Racing Act of 1975 or from gambling
9 games conducted on a riverboat or in a casino or
10 organization gaming facility licensed under the Illinois
11 Gambling Act must withhold Illinois income tax from such
12 payment at a rate equal to the percentage tax rate for
13 individuals provided in subsection (b) of Section 201,
14 provided that the person making the payment is required to
15 withhold under Section 3402(q) of the Internal Revenue
16 Code.

17 (4) Any person making a payment after December 31, 2020
18 to a resident or nonresident of winnings from sports
19 wagering conducted in accordance with the Sports Wagering
20 Act must withhold Illinois income tax from such payment at
21 a rate equal to the percentage tax rate for individuals
22 provided in subsection (b) of Section 201, provided that
23 the person making the payment is required to withhold under
24 Section 3402(q) of the Internal Revenue Code.

25 (b) Credit for taxes withheld. Any amount withheld under
26 Subsection (a) shall be a credit against the Illinois income

1 tax liability of the person to whom the payment of winnings was
2 made for the taxable year in which that person incurred an
3 Illinois income tax liability with respect to those winnings.
4 (Source: P.A. 101-31, eff. 6-28-19.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.