

# HB3424



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

**HB3424**

Introduced 2/22/2021, by Rep. Will Guzzardi

### SYNOPSIS AS INTRODUCED:

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. Provides that provisions concerning apportionment of income from federally regulated exchanges apply only for taxable years ending on or before December 31, 2021.

LRB102 14703 HLH 20056 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

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

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

5 (1) Property factor.

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

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

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

26 (2) Payroll factor.

1           (A) The payroll factor is a fraction, the numerator of  
2           which is the total amount paid in this State during the  
3           taxable year by the person for compensation, and the  
4           denominator of which is the total compensation paid  
5           everywhere during the taxable year.

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

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

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

13                (iii) For tax years ending prior to December 31,  
14                2020, some of the service is performed within this  
15                State and either the base of operations, or if there is  
16                no base of operations, the place from which the  
17                service is directed or controlled is within this  
18                State, or the base of operations or the place from  
19                which the service is directed or controlled is not in  
20                any state in which some part of the service is  
21                performed, but the individual's residence is in this  
22                State. For tax years ending on or after December 31,  
23                2020, compensation is paid in this State if some of the  
24                individual's service is performed within this State,  
25                the individual's service performed within this State  
26                is nonincidental to the individual's service performed

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

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

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

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

1 State; or

2 (2) the only service the individual  
3 performs on behalf of the employer on that day  
4 is traveling to a destination within this  
5 State, and the individual arrives on that day.

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

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

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

1 of the declared disaster or emergency period.

2 "Disaster or emergency-related services"  
3 means repairing, renovating, installing,  
4 building, or rendering services or conducting  
5 other business activities that relate to  
6 infrastructure that has been damaged,  
7 impaired, or destroyed by the declared State  
8 disaster or emergency.

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

22 (iv) Compensation paid to nonresident professional  
23 athletes.

24 (a) General. The Illinois source income of a  
25 nonresident individual who is a member of a  
26 professional athletic team includes the portion of the

1 individual's total compensation for services performed  
2 as a member of a professional athletic team during the  
3 taxable year which the number of duty days spent  
4 within this State performing services for the team in  
5 any manner during the taxable year bears to the total  
6 number of duty days spent both within and without this  
7 State during the taxable year.

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

14 (c) Definitions. For purposes of this subpart  
15 (iv):

16 (1) The term "professional athletic team"  
17 includes, but is not limited to, any professional  
18 baseball, basketball, football, soccer, or hockey  
19 team.

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



1 managers, and trainers.

2 (3) Except as provided in items (C) and (D) of  
3 this subpart (3), the term "duty days" means all  
4 days during the taxable year from the beginning of  
5 the professional athletic team's official  
6 pre-season training period through the last game  
7 in which the team competes or is scheduled to  
8 compete. Duty days shall be counted for the year  
9 in which they occur, including where a team's  
10 official pre-season training period through the  
11 last game in which the team competes or is  
12 scheduled to compete, occurs during more than one  
13 tax year.

14 (A) Duty days shall also include days on  
15 which a member of a professional athletic team  
16 performs service for a team on a date that  
17 does not fall within the foregoing period  
18 (e.g., participation in instructional leagues,  
19 the "All Star Game", or promotional  
20 "caravans"). Performing a service for a  
21 professional athletic team includes conducting  
22 training and rehabilitation activities, when  
23 such activities are conducted at team  
24 facilities.

25 (B) Also included in duty days are game  
26 days, practice days, days spent at team

1 meetings, promotional caravans, preseason  
2 training camps, and days served with the team  
3 through all post-season games in which the  
4 team competes or is scheduled to compete.

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

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

26 (E) Days for which a member of a

1 professional athletic team is on the disabled  
2 list and does not conduct rehabilitation  
3 activities at facilities of the team, and is  
4 not otherwise performing services for the team  
5 in Illinois, shall not be considered duty days  
6 spent in this State. All days on the disabled  
7 list, however, are considered to be included  
8 in total duty days spent both within and  
9 without this State.

10 (4) The term "total compensation for services  
11 performed as a member of a professional athletic  
12 team" means the total compensation received during  
13 the taxable year for services performed:

14 (A) from the beginning of the official  
15 pre-season training period through the last  
16 game in which the team competes or is  
17 scheduled to compete during that taxable year;  
18 and

19 (B) during the taxable year on a date  
20 which does not fall within the foregoing  
21 period (e.g., participation in instructional  
22 leagues, the "All Star Game", or promotional  
23 caravans).

24 This compensation shall include, but is not  
25 limited to, salaries, wages, bonuses as described  
26 in this subpart, and any other type of

1 compensation paid during the taxable year to a  
2 member of a professional athletic team for  
3 services performed in that year. This compensation  
4 does not include strike benefits, severance pay,  
5 termination pay, contract or option year buy-out  
6 payments, expansion or relocation payments, or any  
7 other payments not related to services performed  
8 for the team.

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

26 (3) Sales factor.

1           (A) The sales factor is a fraction, the numerator of  
2           which is the total sales of the person in this State during  
3           the taxable year, and the denominator of which is the  
4           total sales of the person everywhere during the taxable  
5           year.

6           (B) Sales of tangible personal property are in this  
7           State if:

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

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

1 the United States and the property is purchased for  
2 resale.

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

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

12 (ii) Place of utilization.

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

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

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

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

23 (B-2) Gross receipts from the license, sale, or other  
24 disposition of patents, copyrights, trademarks, and  
25 similar items of intangible personal property, other than  
26 gross receipts governed by paragraph (B-7) of this item

1 (3), may be included in the numerator or denominator of  
2 the sales factor only if gross receipts from licenses,  
3 sales, or other disposition of such items comprise more  
4 than 50% of the taxpayer's total gross receipts included  
5 in gross income during the tax year and during each of the  
6 2 immediately preceding tax years; provided that, when a  
7 taxpayer is a member of a unitary business group, such  
8 determination shall be made on the basis of the gross  
9 receipts of the entire unitary business group.

10 (B-5) For taxable years ending on or after December  
11 31, 2008, except as provided in subsections (ii) through  
12 (vii), receipts from the sale of telecommunications  
13 service or mobile telecommunications service are in this  
14 State if the customer's service address is in this State.

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

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

23 "Air-to-Ground Radiotelephone service" means a  
24 radio service, as that term is defined in 47 CFR 22.99,  
25 in which common carriers are authorized to offer and  
26 provide radio telecommunications service for hire to



1 subscribers in aircraft.

2 "Call-by-call Basis" means any method of charging  
3 for telecommunications services where the price is  
4 measured by individual calls.

5 "Communications Channel" means a physical or  
6 virtual path of communications over which signals are  
7 transmitted between or among customer channel  
8 termination points.

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

15 "Customer Channel Termination Point" means the  
16 location where the customer either inputs or receives  
17 the communications.

18 "Detailed telecommunications billing service"  
19 means an "ancillary service" of separately stating  
20 information pertaining to individual calls on a  
21 customer's billing statement.

22 "Directory assistance" means an "ancillary  
23 service" of providing telephone number information,  
24 and/or address information.

25 "Home service provider" means the facilities based  
26 carrier or reseller with which the customer contracts

1 for the provision of mobile telecommunications  
2 services.

3 "Mobile telecommunications service" means  
4 commercial mobile radio service, as defined in Section  
5 20.3 of Title 47 of the Code of Federal Regulations as  
6 in effect on June 1, 1999.

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

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

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

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

17           "Private communication service" means a  
18 telecommunication service that entitles the customer  
19 to exclusive or priority use of a communications  
20 channel or group of channels between or among  
21 termination points, regardless of the manner in which  
22 such channel or channels are connected, and includes  
23 switching capacity, extension lines, stations, and any  
24 other associated services that are provided in  
25 connection with the use of such channel or channels.

26           "Service address" means:

1           (a) The location of the telecommunications  
2           equipment to which a customer's call is charged  
3           and from which the call originates or terminates,  
4           regardless of where the call is billed or paid;

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

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

16          "Telecommunications service" means the electronic  
17          transmission, conveyance, or routing of voice, data,  
18          audio, video, or any other information or signals to a  
19          point, or between or among points. The term  
20          "telecommunications service" includes such  
21          transmission, conveyance, or routing in which computer  
22          processing applications are used to act on the form,  
23          code or protocol of the content for purposes of  
24          transmission, conveyance or routing without regard to  
25          whether such service is referred to as voice over  
26          Internet protocol services or is classified by the

1 Federal Communications Commission as enhanced or value  
2 added. "Telecommunications service" does not include:

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

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

11 (c) Tangible personal property;

12 (d) Advertising, including, but not limited  
13 to, directory advertising;

14 (e) Billing and collection services provided  
15 to third parties;

16 (f) Internet access service;

17 (g) Radio and television audio and video  
18 programming services, regardless of the medium,  
19 including the furnishing of transmission,  
20 conveyance and routing of such services by the  
21 programming service provider. Radio and television  
22 audio and video programming services shall  
23 include, but not be limited to, cable service as  
24 defined in 47 USC 522(6) and audio and video  
25 programming services delivered by commercial  
26 mobile radio service providers, as defined in 47

1 CFR 20.3;

2 (h) "Ancillary services"; or

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

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

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

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

22 (a) The call both originates and terminates in  
23 this State.

24 (b) The call either originates or terminates  
25 in this State and the service address is located  
26 in this State.

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

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

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

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

23 (b) 100% of receipts from charges for the  
24 total channel mileage between each channel  
25 termination point in this State.

26 (c) 50% of the total receipts from charges for

1 service segments when those segments are between 2  
2 customer channel termination points, 1 of which is  
3 located in this State and the other is located  
4 outside of this State, which segments are  
5 separately charged.

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

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

23 (vii) Receipts to access a carrier's network or  
24 from the sale of telecommunication services or  
25 ancillary services for resale are in this State as  
26 follows:



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

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

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

16          (d) Gross receipts from sales of  
17          telecommunication services or from ancillary  
18          services for telecommunications services sold to  
19          other telecommunication service providers for  
20          resale shall be sourced to this State using the  
21          apportionment concepts used for non-resale  
22          receipts of telecommunications services if the  
23          information is readily available to make that  
24          determination. If the information is not readily  
25          available, then the taxpayer may use any other  
26          reasonable and consistent method.

1 (B-7) For taxable years ending on or after December  
2 31, 2008, receipts from the sale of broadcasting services  
3 are in this State if the broadcasting services are  
4 received in this State. For purposes of this paragraph  
5 (B-7), the following terms have the following meanings:

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

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

24 "Broadcast" or "broadcasting" or "broadcasting  
25 services" means the transmission or provision of film  
26 or radio programming, whether through the public

1           airwaves, by cable, by direct or indirect satellite  
2           transmission, or by any other means of communication,  
3           either through a station, a network, or a cable  
4           system.

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

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

1 tax periods.

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

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

24 (iii) In the case where film or radio  
25 programming is broadcast by a station, a network,  
26 or a cable system for a fee or other remuneration

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

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

26 (v) In the case where film or radio

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

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

18 (B-9) For taxable years ending on or after December  
19 31, 2019, gross receipts from winnings from pari-mutuel  
20 wagering conducted at a wagering facility licensed under  
21 the Illinois Horse Racing Act of 1975 or from winnings  
22 from gambling games conducted on a riverboat or in a  
23 casino or organization gaming facility licensed under the  
24 Illinois Gambling Act are in this State.

25 (C) For taxable years ending before December 31, 2008,  
26 sales, other than sales governed by paragraphs (B), (B-1),

1 (B-2), and (B-8) are in this State if:

2 (i) The income-producing activity is performed in  
3 this State; or

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

9 (C-5) For taxable years ending on or after December  
10 31, 2008, sales, other than sales governed by paragraphs  
11 (B), (B-1), (B-2), (B-5), and (B-7), are in this State if  
12 any of the following criteria are met:

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

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

25 (iii) In the case of interest, net gains (but not  
26 less than zero) and other items of income from

1 intangible personal property, the sale is in this  
2 State if:

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

18 (b) in all other cases, if the  
19 income-producing activity of the taxpayer is  
20 performed in this State or, if the  
21 income-producing activity of the taxpayer is  
22 performed both within and without this State, if a  
23 greater proportion of the income-producing  
24 activity of the taxpayer is performed within this  
25 State than in any other state, based on  
26 performance costs.



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

24           (D) For taxable years ending on or after December 31,  
25 1995, the following items of income shall not be included  
26 in the numerator or denominator of the sales factor:

1 dividends; amounts included under Section 78 of the  
2 Internal Revenue Code; and Subpart F income as defined in  
3 Section 952 of the Internal Revenue Code. No inference  
4 shall be drawn from the enactment of this paragraph (D) in  
5 construing this Section for taxable years ending before  
6 December 31, 1995.

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

25 (b) Insurance companies.

26 (1) In general. Except as otherwise provided by

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

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

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

20 (c) Financial organizations.

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

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

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

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

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

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

17 (E) Any other gross income resulting from the  
18 operation as a financial organization within this  
19 State.

20 In computing the amounts referred to in paragraphs (A)  
21 through (E) of this subsection, any amount received by a  
22 member of an affiliated group (determined under Section  
23 1504(a) of the Internal Revenue Code but without reference  
24 to whether any such corporation is an "includible  
25 corporation" under Section 1504(b) of the Internal Revenue  
26 Code) from another member of such group shall be included



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

1 and losses from such assets and activities.

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

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

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

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

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

1 assets and activities.

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

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

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

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

26 (E) The presumption of proper assignment

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

1           they are working, irrespective of where the  
2           services of such employees are performed, as  
3           of the last day of the taxable year.

4           (4) (Blank).

5           (5) (Blank).

6           (c-1) Federally regulated exchanges. For taxable years  
7           ending on or after December 31, 2012 and ending on or before  
8           December 31, 2021, business income of a federally regulated  
9           exchange shall, at the option of the federally regulated  
10          exchange, be apportioned to this State by multiplying such  
11          income by a fraction, the numerator of which is its business  
12          income from sources within this State, and the denominator of  
13          which is its business income from all sources. For purposes of  
14          this subsection, the business income within this State of a  
15          federally regulated exchange is the sum of the following:

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

19               (2) Receipts attributable to all other matching,  
20               execution, or clearing transactions, including without  
21               limitation receipts from the provision of matching,  
22               execution, or clearing services to another entity,  
23               multiplied by (i) for taxable years ending on or after  
24               December 31, 2012 but before December 31, 2013, 63.77%;  
25               and (ii) for taxable years ending on or after December 31,  
26               2013, 27.54%.



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

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

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

1 after December 31, 2013 for which this subsection (c-1)  
2 applied to the taxpayer.

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

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

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

25 (B) relative gross receipts from passenger and  
26 freight transportation, in case of transportation

1           other than by railroad.

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

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

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

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

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

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

1 transportation of both passengers and freight, the  
2 fraction above referred to shall be determined by means of  
3 an average of the passenger revenue mile fraction and the  
4 freight revenue mile fraction, weighted to reflect the  
5 person's relative gross receipts from passenger and  
6 freight airline transportation.

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

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

23 (1) Separate accounting;

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

25 (3) The inclusion of one or more additional factors  
26 which will fairly represent the person's business

1 activities or market in this State; or

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

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

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

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

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

18 (3) for tax years ending on or after December 31,  
19 2000, the sales factor.

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

1 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;  
2 101-585, eff. 8-26-19; revised 9-12-19.)