



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2126

Introduced 2/26/2021, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/304.1 new	
35 ILCS 5/1501	from Ch. 120, par. 15-1501

Amends the Illinois Income Tax Act. Provides that all the corporations, wherever incorporated or domiciled, that are members of a unitary business shall file a combined return as a combined group. Makes changes to the definition of "unitary business". Contains provisions concerning a water's edge election. Provides that, with respect to unitary business groups, "United States" means the 50 states of the United States, the District of Columbia, and United States' territories and possessions.

LRB102 15189 HLH 20544 b

FISCAL NOTE ACT
MAY APPLY

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 304, 304.1, 1501 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, business income of a
8 federally regulated exchange shall, at the option of the
9 federally regulated exchange, be apportioned to this State by
10 multiplying such income by a fraction, the numerator of which
11 is its business income from sources within this State, and the
12 denominator of which is its business income from all sources.
13 For purposes of this subsection, the business income within
14 this State of a federally regulated exchange is the sum of the
15 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 set forth in Section 304.1.

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

- 24 (1) Separate accounting;
25 (2) The exclusion of any one or more factors;
26 (3) The inclusion of one or more additional factors

1 which will fairly represent the person's business
2 activities or market in this State; or

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

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

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

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

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

19 (3) for tax years ending on or after December 31,
20 2000, the sales factor.

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

1 equal to zero.

2 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;
3 101-585, eff. 8-26-19; revised 9-12-19.)

4 (35 ILCS 5/304.1 new)

5 Sec. 304.1. Requirement to file a combined return; joint
6 and several liability.

7 (a) Except as otherwise provided, for taxable years
8 beginning on or after January 1, 2022, all the corporations,
9 wherever incorporated or domiciled, that are members of a
10 unitary business shall file a combined return as a combined
11 group. That return must include the income and apportionment
12 factors, and other information required by the Department for
13 all members of the combined group wherever located or doing
14 business. The combined return must be filed under the name and
15 federal employer identification number of the parent
16 corporation if the parent is a member of the combined group. If
17 there is no parent corporation, or if the parent is not a group
18 member, the members of the combined group shall choose a
19 member to file the return. The filing member must remain the
20 same in subsequent years unless the filing member is no longer
21 the parent corporation or is no longer a member of the combined
22 group. The return must be signed by a responsible officer of
23 the filing member on behalf of the combined group members.
24 Members of the combined group are jointly and severally liable
25 for the tax liability of the combined group included in the

1 combined return.

2 (b) The Department, by rule, may require that the combined
3 return include the income and associated apportionment factors
4 of persons that are not included pursuant to subsection (a),
5 but that are members of a unitary business, in order to reflect
6 proper apportionment of income of the entire unitary business.
7 Authority to require combination by rule under this subsection
8 (b) includes authority to require combination of the income
9 and associated apportionment factors of persons that are not
10 subject to the Illinois Income Tax Act or would not be subject
11 to the Illinois Income Tax Act if doing business in this State.

12 (c) In addition, if the Department determines that the
13 reported income or loss of a taxpayer engaged in a unitary
14 business with a person not included pursuant to subsection (a)
15 or pursuant to an election under subsection (e) represents an
16 avoidance or evasion of tax by such taxpayer, the Department
17 may, on a case by case basis, require all or part of the income
18 and associated apportionment factors of such person be
19 included in the taxpayer's combined return.

20 (d) With respect to inclusion of associated apportionment
21 factors pursuant to this Section, the Department may require
22 the exclusion of one or more of the factors, the inclusion of
23 one or more additional factors that will fairly represent the
24 taxpayer's business activity in this State, or the employment
25 of any other method to effectuate a proper reflection of the
26 total amount of income subject to apportionment and an

1 equitable allocation and apportionment of the taxpayer's
2 income.

3 (e) Water's-edge election; initiation and withdrawal.

4 Members of a unitary group that meet the requirements of
5 this subsection may elect to file as a combined group pursuant
6 to a water's-edge election. Under such election, the combined
7 group takes into account all or a portion of the income and
8 apportionment factors of only the following members:

9 (1) the entire income and apportionment factors of a
10 member incorporated in the United States or formed under
11 the laws of any state, the District of Columbia, or any
12 territory or possession of the United States;

13 (2) the entire income and apportionment factors of a
14 member, regardless of the place incorporated or formed, if
15 the average of its property, payroll, and receipts factors
16 within the United States is 20% or more;

17 (3) the entire income and apportionment factors of a
18 member which is a domestic international sales
19 corporations as described in Internal Revenue Code
20 Sections 991 to 994, inclusive; a foreign sales
21 corporation as described in Internal Revenue Code Sections
22 921 to 927, inclusive; or a member which is an export trade
23 corporation, as described in Internal Revenue Code
24 Sections 970 to 971, inclusive;

25 (4) for a member not described in paragraphs (1)
26 through (3), include the portion of its income derived

1 from or attributable to sources within the United States,
2 as determined under the Internal Revenue Code without
3 regard to federal treaties, and its apportionment factors
4 related thereto;

5 (5) for a member that is a "controlled foreign
6 corporation," as defined in Internal Revenue Code Section
7 957, include income to the extent of the income of that
8 member that is defined in Section 952 of Subpart F of the
9 Internal Revenue Code ("Subpart F income") not excluding
10 lower-tier subsidiaries' distributions of such income
11 which were previously taxed, determined without regard to
12 federal treaties, and the apportionment factors related to
13 that income; any item of income received by a controlled
14 foreign corporation is excluded if such income was subject
15 to an effective rate of income tax imposed by a foreign
16 country greater than 90% of the maximum rate of tax
17 specified in Internal Revenue Code Section 11;

18 (6) for a member that earns more than 20% of its
19 income, directly or indirectly, from intangible property
20 or service related activities that are deductible against
21 the apportionable income of other members of the combined
22 group, include the related income and the apportionment
23 factors; and

24 (7) the entire income and apportionment factors of a
25 member that is doing business in a tax haven, where "doing
26 business in a tax haven" is defined as being engaged in

1 activity sufficient for that tax haven jurisdiction to
2 impose a tax under United States constitutional standards.
3 If the member's business activity within a tax haven is
4 entirely outside the scope of the laws, provisions and
5 practices that cause the jurisdiction to meet the criteria
6 of a tax haven, the activity of the member shall be treated
7 as not having been conducted in a tax haven.

8 A water's-edge election is effective only if made on a
9 timely-filed, original return for a tax year by the members of
10 the unitary business. The Department shall adopt rules
11 governing the impact, if any, on the scope or application of a
12 water's-edge election, including the procedures for election
13 and termination or deemed election, resulting from a change in
14 the composition of the unitary group, the combined group, the
15 members, and any other similar change.

16 In the discretion of the Department, a water's-edge
17 election may be disregarded in part or in whole, and the income
18 and apportionment factors of any member of the unitary group
19 may be included in the combined report without regard to the
20 provisions of this Section, if any member of the unitary group
21 fails to comply with any provision of this Act or if a person
22 otherwise not included in the water's-edge combined group was
23 availed of with a substantial objective of avoiding state
24 income tax.

25 A water's edge election has no effect on whether entities
26 that are excluded from the water's edge combined group may be

1 separately liable for tax under this Act. Those entities must
2 separately file and pay tax in the State, if applicable.

3 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

4 Sec. 1501. Definitions.

5 (a) In general. When used in this Act, where not otherwise
6 distinctly expressed or manifestly incompatible with the
7 intent thereof:

8 (1) Business income. The term "business income" means
9 all income that may be treated as apportionable business
10 income under the Constitution of the United States.
11 Business income is net of the deductions allocable
12 thereto. Such term does not include compensation or the
13 deductions allocable thereto. For each taxable year
14 beginning on or after January 1, 2003, a taxpayer may
15 elect to treat all income other than compensation as
16 business income. This election shall be made in accordance
17 with rules adopted by the Department and, once made, shall
18 be irrevocable.

19 (1.5) Captive real estate investment trust:

20 (A) The term "captive real estate investment
21 trust" means a corporation, trust, or association:

22 (i) that is considered a real estate
23 investment trust for the taxable year under
24 Section 856 of the Internal Revenue Code;

25 (ii) the certificates of beneficial interest

1 or shares of which are not regularly traded on an
2 established securities market; and

3 (iii) of which more than 50% of the voting
4 power or value of the beneficial interest or
5 shares, at any time during the last half of the
6 taxable year, is owned or controlled, directly,
7 indirectly, or constructively, by a single
8 corporation.

9 (B) The term "captive real estate investment
10 trust" does not include:

11 (i) a real estate investment trust of which
12 more than 50% of the voting power or value of the
13 beneficial interest or shares is owned or
14 controlled, directly, indirectly, or
15 constructively, by:

16 (a) a real estate investment trust, other
17 than a captive real estate investment trust;

18 (b) a person who is exempt from taxation
19 under Section 501 of the Internal Revenue
20 Code, and who is not required to treat income
21 received from the real estate investment trust
22 as unrelated business taxable income under
23 Section 512 of the Internal Revenue Code;

24 (c) a listed Australian property trust, if
25 no more than 50% of the voting power or value
26 of the beneficial interest or shares of that

1 trust, at any time during the last half of the
2 taxable year, is owned or controlled, directly
3 or indirectly, by a single person;

4 (d) an entity organized as a trust,
5 provided a listed Australian property trust
6 described in subparagraph (c) owns or
7 controls, directly or indirectly, or
8 constructively, 75% or more of the voting
9 power or value of the beneficial interests or
10 shares of such entity; or

11 (e) an entity that is organized outside of
12 the laws of the United States and that
13 satisfies all of the following criteria:

14 (1) at least 75% of the entity's total
15 asset value at the close of its taxable
16 year is represented by real estate assets
17 (as defined in Section 856(c)(5)(B) of the
18 Internal Revenue Code, thereby including
19 shares or certificates of beneficial
20 interest in any real estate investment
21 trust), cash and cash equivalents, and
22 U.S. Government securities;

23 (2) the entity is not subject to tax
24 on amounts that are distributed to its
25 beneficial owners or is exempt from
26 entity-level taxation;

1 (3) the entity distributes at least
2 85% of its taxable income (as computed in
3 the jurisdiction in which it is organized)
4 to the holders of its shares or
5 certificates of beneficial interest on an
6 annual basis;

7 (4) either (i) the shares or
8 beneficial interests of the entity are
9 regularly traded on an established
10 securities market or (ii) not more than
11 10% of the voting power or value in the
12 entity is held, directly, indirectly, or
13 constructively, by a single entity or
14 individual; and

15 (5) the entity is organized in a
16 country that has entered into a tax treaty
17 with the United States; or

18 (ii) during its first taxable year for which
19 it elects to be treated as a real estate
20 investment trust under Section 856(c)(1) of the
21 Internal Revenue Code, a real estate investment
22 trust the certificates of beneficial interest or
23 shares of which are not regularly traded on an
24 established securities market, but only if the
25 certificates of beneficial interest or shares of
26 the real estate investment trust are regularly

1 traded on an established securities market prior
2 to the earlier of the due date (including
3 extensions) for filing its return under this Act
4 for that first taxable year or the date it
5 actually files that return.

6 (C) For the purposes of this subsection (1.5), the
7 constructive ownership rules prescribed under Section
8 318(a) of the Internal Revenue Code, as modified by
9 Section 856(d)(5) of the Internal Revenue Code, apply
10 in determining the ownership of stock, assets, or net
11 profits of any person.

12 (D) For the purposes of this item (1.5), for
13 taxable years ending on or after August 16, 2007, the
14 voting power or value of the beneficial interest or
15 shares of a real estate investment trust does not
16 include any voting power or value of beneficial
17 interest or shares in a real estate investment trust
18 held directly or indirectly in a segregated asset
19 account by a life insurance company (as described in
20 Section 817 of the Internal Revenue Code) to the
21 extent such voting power or value is for the benefit of
22 entities or persons who are either immune from
23 taxation or exempt from taxation under subtitle A of
24 the Internal Revenue Code.

25 (2) Commercial domicile. The term "commercial
26 domicile" means the principal place from which the trade

1 or business of the taxpayer is directed or managed.

2 (3) Compensation. The term "compensation" means wages,
3 salaries, commissions and any other form of remuneration
4 paid to employees for personal services.

5 (4) Corporation. The term "corporation" includes
6 associations, joint-stock companies, insurance companies
7 and cooperatives. Any entity, including a limited
8 liability company formed under the Illinois Limited
9 Liability Company Act, shall be treated as a corporation
10 if it is so classified for federal income tax purposes.

11 (5) Department. The term "Department" means the
12 Department of Revenue of this State.

13 (6) Director. The term "Director" means the Director
14 of Revenue of this State.

15 (7) Fiduciary. The term "fiduciary" means a guardian,
16 trustee, executor, administrator, receiver, or any person
17 acting in any fiduciary capacity for any person.

18 (8) Financial organization.

19 (A) The term "financial organization" means any
20 bank, bank holding company, trust company, savings
21 bank, industrial bank, land bank, safe deposit
22 company, private banker, savings and loan association,
23 building and loan association, credit union, currency
24 exchange, cooperative bank, small loan company, sales
25 finance company, investment company, or any person
26 which is owned by a bank or bank holding company. For

1 the purpose of this Section a "person" will include
2 only those persons which a bank holding company may
3 acquire and hold an interest in, directly or
4 indirectly, under the provisions of the Bank Holding
5 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
6 where interests in any person must be disposed of
7 within certain required time limits under the Bank
8 Holding Company Act of 1956.

9 (B) For purposes of subparagraph (A) of this
10 paragraph, the term "bank" includes (i) any entity
11 that is regulated by the Comptroller of the Currency
12 under the National Bank Act, or by the Federal Reserve
13 Board, or by the Federal Deposit Insurance Corporation
14 and (ii) any federally or State chartered bank
15 operating as a credit card bank.

16 (C) For purposes of subparagraph (A) of this
17 paragraph, the term "sales finance company" has the
18 meaning provided in the following item (i) or (ii):

19 (i) A person primarily engaged in one or more
20 of the following businesses: the business of
21 purchasing customer receivables, the business of
22 making loans upon the security of customer
23 receivables, the business of making loans for the
24 express purpose of funding purchases of tangible
25 personal property or services by the borrower, or
26 the business of finance leasing. For purposes of

1 this item (i), "customer receivable" means:

2 (a) a retail installment contract or
3 retail charge agreement within the meaning of
4 the Sales Finance Agency Act, the Retail
5 Installment Sales Act, or the Motor Vehicle
6 Retail Installment Sales Act;

7 (b) an installment, charge, credit, or
8 similar contract or agreement arising from the
9 sale of tangible personal property or services
10 in a transaction involving a deferred payment
11 price payable in one or more installments
12 subsequent to the sale; or

13 (c) the outstanding balance of a contract
14 or agreement described in provisions (a) or
15 (b) of this item (i).

16 A customer receivable need not provide for
17 payment of interest on deferred payments. A sales
18 finance company may purchase a customer receivable
19 from, or make a loan secured by a customer
20 receivable to, the seller in the original
21 transaction or to a person who purchased the
22 customer receivable directly or indirectly from
23 that seller.

24 (ii) A corporation meeting each of the
25 following criteria:

26 (a) the corporation must be a member of an

1 "affiliated group" within the meaning of
2 Section 1504(a) of the Internal Revenue Code,
3 determined without regard to Section 1504(b)
4 of the Internal Revenue Code;

5 (b) more than 50% of the gross income of
6 the corporation for the taxable year must be
7 interest income derived from qualifying loans.
8 A "qualifying loan" is a loan made to a member
9 of the corporation's affiliated group that
10 originates customer receivables (within the
11 meaning of item (i)) or to whom customer
12 receivables originated by a member of the
13 affiliated group have been transferred, to the
14 extent the average outstanding balance of
15 loans from that corporation to members of its
16 affiliated group during the taxable year do
17 not exceed the limitation amount for that
18 corporation. The "limitation amount" for a
19 corporation is the average outstanding
20 balances during the taxable year of customer
21 receivables (within the meaning of item (i))
22 originated by all members of the affiliated
23 group. If the average outstanding balances of
24 the loans made by a corporation to members of
25 its affiliated group exceed the limitation
26 amount, the interest income of that

1 corporation from qualifying loans shall be
2 equal to its interest income from loans to
3 members of its affiliated groups times a
4 fraction equal to the limitation amount
5 divided by the average outstanding balances of
6 the loans made by that corporation to members
7 of its affiliated group;

8 (c) the total of all shareholder's equity
9 (including, without limitation, paid-in
10 capital on common and preferred stock and
11 retained earnings) of the corporation plus the
12 total of all of its loans, advances, and other
13 obligations payable or owed to members of its
14 affiliated group may not exceed 20% of the
15 total assets of the corporation at any time
16 during the tax year; and

17 (d) more than 50% of all interest-bearing
18 obligations of the affiliated group payable to
19 persons outside the group determined in
20 accordance with generally accepted accounting
21 principles must be obligations of the
22 corporation.

23 This amendatory Act of the 91st General Assembly
24 is declaratory of existing law.

25 (D) Subparagraphs (B) and (C) of this paragraph
26 are declaratory of existing law and apply

1 retroactively, for all tax years beginning on or
2 before December 31, 1996, to all original returns, to
3 all amended returns filed no later than 30 days after
4 the effective date of this amendatory Act of 1996, and
5 to all notices issued on or before the effective date
6 of this amendatory Act of 1996 under subsection (a) of
7 Section 903, subsection (a) of Section 904, subsection
8 (e) of Section 909, or Section 912. A taxpayer that is
9 a "financial organization" that engages in any
10 transaction with an affiliate shall be a "financial
11 organization" for all purposes of this Act.

12 (E) For all tax years beginning on or before
13 December 31, 1996, a taxpayer that falls within the
14 definition of a "financial organization" under
15 subparagraphs (B) or (C) of this paragraph, but who
16 does not fall within the definition of a "financial
17 organization" under the Proposed Regulations issued by
18 the Department of Revenue on July 19, 1996, may
19 irrevocably elect to apply the Proposed Regulations
20 for all of those years as though the Proposed
21 Regulations had been lawfully promulgated, adopted,
22 and in effect for all of those years. For purposes of
23 applying subparagraphs (B) or (C) of this paragraph to
24 all of those years, the election allowed by this
25 subparagraph applies only to the taxpayer making the
26 election and to those members of the taxpayer's

1 unitary business group who are ordinarily required to
2 apportion business income under the same subsection of
3 Section 304 of this Act as the taxpayer making the
4 election. No election allowed by this subparagraph
5 shall be made under a claim filed under subsection (d)
6 of Section 909 more than 30 days after the effective
7 date of this amendatory Act of 1996.

8 (F) Finance Leases. For purposes of this
9 subsection, a finance lease shall be treated as a loan
10 or other extension of credit, rather than as a lease,
11 regardless of how the transaction is characterized for
12 any other purpose, including the purposes of any
13 regulatory agency to which the lessor is subject. A
14 finance lease is any transaction in the form of a lease
15 in which the lessee is treated as the owner of the
16 leased asset entitled to any deduction for
17 depreciation allowed under Section 167 of the Internal
18 Revenue Code.

19 (9) Fiscal year. The term "fiscal year" means an
20 accounting period of 12 months ending on the last day of
21 any month other than December.

22 (9.5) Fixed place of business. The term "fixed place
23 of business" has the same meaning as that term is given in
24 Section 864 of the Internal Revenue Code and the related
25 Treasury regulations.

26 (10) Includes and including. The terms "includes" and

1 "including" when used in a definition contained in this
2 Act shall not be deemed to exclude other things otherwise
3 within the meaning of the term defined.

4 (11) Internal Revenue Code. The term "Internal Revenue
5 Code" means the United States Internal Revenue Code of
6 1954 or any successor law or laws relating to federal
7 income taxes in effect for the taxable year.

8 (11.5) Investment partnership.

9 (A) The term "investment partnership" means any
10 entity that is treated as a partnership for federal
11 income tax purposes that meets the following
12 requirements:

13 (i) no less than 90% of the partnership's cost
14 of its total assets consists of qualifying
15 investment securities, deposits at banks or other
16 financial institutions, and office space and
17 equipment reasonably necessary to carry on its
18 activities as an investment partnership;

19 (ii) no less than 90% of its gross income
20 consists of interest, dividends, and gains from
21 the sale or exchange of qualifying investment
22 securities; and

23 (iii) the partnership is not a dealer in
24 qualifying investment securities.

25 (B) For purposes of this paragraph (11.5), the
26 term "qualifying investment securities" includes all

1 of the following:

2 (i) common stock, including preferred or debt
3 securities convertible into common stock, and
4 preferred stock;

5 (ii) bonds, debentures, and other debt
6 securities;

7 (iii) foreign and domestic currency deposits
8 secured by federal, state, or local governmental
9 agencies;

10 (iv) mortgage or asset-backed securities
11 secured by federal, state, or local governmental
12 agencies;

13 (v) repurchase agreements and loan
14 participations;

15 (vi) foreign currency exchange contracts and
16 forward and futures contracts on foreign
17 currencies;

18 (vii) stock and bond index securities and
19 futures contracts and other similar financial
20 securities and futures contracts on those
21 securities;

22 (viii) options for the purchase or sale of any
23 of the securities, currencies, contracts, or
24 financial instruments described in items (i) to
25 (vii), inclusive;

26 (ix) regulated futures contracts;

1 (x) commodities (not described in Section
2 1221(a)(1) of the Internal Revenue Code) or
3 futures, forwards, and options with respect to
4 such commodities, provided, however, that any item
5 of a physical commodity to which title is actually
6 acquired in the partnership's capacity as a dealer
7 in such commodity shall not be a qualifying
8 investment security;

9 (xi) derivatives; and

10 (xii) a partnership interest in another
11 partnership that is an investment partnership.

12 (12) Mathematical error. The term "mathematical error"
13 includes the following types of errors, omissions, or
14 defects in a return filed by a taxpayer which prevents
15 acceptance of the return as filed for processing:

16 (A) arithmetic errors or incorrect computations on
17 the return or supporting schedules;

18 (B) entries on the wrong lines;

19 (C) omission of required supporting forms or
20 schedules or the omission of the information in whole
21 or in part called for thereon; and

22 (D) an attempt to claim, exclude, deduct, or
23 improperly report, in a manner directly contrary to
24 the provisions of the Act and regulations thereunder
25 any item of income, exemption, deduction, or credit.

26 (13) Nonbusiness income. The term "nonbusiness income"

1 means all income other than business income or
2 compensation.

3 (14) Nonresident. The term "nonresident" means a
4 person who is not a resident.

5 (15) Paid, incurred and accrued. The terms "paid",
6 "incurred" and "accrued" shall be construed according to
7 the method of accounting upon the basis of which the
8 person's base income is computed under this Act.

9 (16) Partnership and partner. The term "partnership"
10 includes a syndicate, group, pool, joint venture or other
11 unincorporated organization, through or by means of which
12 any business, financial operation, or venture is carried
13 on, and which is not, within the meaning of this Act, a
14 trust or estate or a corporation; and the term "partner"
15 includes a member in such syndicate, group, pool, joint
16 venture or organization.

17 The term "partnership" includes any entity, including
18 a limited liability company formed under the Illinois
19 Limited Liability Company Act, classified as a partnership
20 for federal income tax purposes.

21 The term "partnership" does not include a syndicate,
22 group, pool, joint venture, or other unincorporated
23 organization established for the sole purpose of playing
24 the Illinois State Lottery.

25 (17) Part-year resident. The term "part-year resident"
26 means an individual who became a resident during the

1 taxable year or ceased to be a resident during the taxable
2 year. Under Section 1501(a)(20)(A)(i) residence commences
3 with presence in this State for other than a temporary or
4 transitory purpose and ceases with absence from this State
5 for other than a temporary or transitory purpose. Under
6 Section 1501(a)(20)(A)(ii) residence commences with the
7 establishment of domicile in this State and ceases with
8 the establishment of domicile in another State.

9 (18) Person. The term "person" shall be construed to
10 mean and include an individual, a trust, estate,
11 partnership, association, firm, company, corporation,
12 limited liability company, or fiduciary. For purposes of
13 Section 1301 and 1302 of this Act, a "person" means (i) an
14 individual, (ii) a corporation, (iii) an officer, agent,
15 or employee of a corporation, (iv) a member, agent or
16 employee of a partnership, or (v) a member, manager,
17 employee, officer, director, or agent of a limited
18 liability company who in such capacity commits an offense
19 specified in Section 1301 and 1302.

20 (18A) Records. The term "records" includes all data
21 maintained by the taxpayer, whether on paper, microfilm,
22 microfiche, or any type of machine-sensible data
23 compilation.

24 (19) Regulations. The term "regulations" includes
25 rules promulgated and forms prescribed by the Department.

26 (20) Resident. The term "resident" means:

1 (A) an individual (i) who is in this State for
2 other than a temporary or transitory purpose during
3 the taxable year; or (ii) who is domiciled in this
4 State but is absent from the State for a temporary or
5 transitory purpose during the taxable year;

6 (B) The estate of a decedent who at his or her
7 death was domiciled in this State;

8 (C) A trust created by a will of a decedent who at
9 his death was domiciled in this State; and

10 (D) An irrevocable trust, the grantor of which was
11 domiciled in this State at the time such trust became
12 irrevocable. For purpose of this subparagraph, a trust
13 shall be considered irrevocable to the extent that the
14 grantor is not treated as the owner thereof under
15 Sections 671 through 678 of the Internal Revenue Code.

16 (21) Sales. The term "sales" means all gross receipts
17 of the taxpayer not allocated under Sections 301, 302 and
18 303.

19 (22) State. The term "state" when applied to a
20 jurisdiction other than this State means any state of the
21 United States, the District of Columbia, the Commonwealth
22 of Puerto Rico, any Territory or Possession of the United
23 States, and any foreign country, or any political
24 subdivision of any of the foregoing. For purposes of the
25 foreign tax credit under Section 601, the term "state"
26 means any state of the United States, the District of

1 Columbia, the Commonwealth of Puerto Rico, and any
2 territory or possession of the United States, or any
3 political subdivision of any of the foregoing, effective
4 for tax years ending on or after December 31, 1989.

5 (23) Taxable year. The term "taxable year" means the
6 calendar year, or the fiscal year ending during such
7 calendar year, upon the basis of which the base income is
8 computed under this Act. "Taxable year" means, in the case
9 of a return made for a fractional part of a year under the
10 provisions of this Act, the period for which such return
11 is made.

12 (24) Taxpayer. The term "taxpayer" means any person
13 subject to the tax imposed by this Act.

14 (25) International banking facility. The term
15 international banking facility shall have the same meaning
16 as is set forth in the Illinois Banking Act or as is set
17 forth in the laws of the United States or regulations of
18 the Board of Governors of the Federal Reserve System.

19 (26) Income Tax Return Preparer.

20 (A) The term "income tax return preparer" means
21 any person who prepares for compensation, or who
22 employs one or more persons to prepare for
23 compensation, any return of tax imposed by this Act or
24 any claim for refund of tax imposed by this Act. The
25 preparation of a substantial portion of a return or
26 claim for refund shall be treated as the preparation

1 of that return or claim for refund.

2 (B) A person is not an income tax return preparer
3 if all he or she does is

4 (i) furnish typing, reproducing, or other
5 mechanical assistance;

6 (ii) prepare returns or claims for refunds for
7 the employer by whom he or she is regularly and
8 continuously employed;

9 (iii) prepare as a fiduciary returns or claims
10 for refunds for any person; or

11 (iv) prepare claims for refunds for a taxpayer
12 in response to any notice of deficiency issued to
13 that taxpayer or in response to any waiver of
14 restriction after the commencement of an audit of
15 that taxpayer or of another taxpayer if a
16 determination in the audit of the other taxpayer
17 directly or indirectly affects the tax liability
18 of the taxpayer whose claims he or she is
19 preparing.

20 (26.5) Unitary business. "Unitary business" means a
21 single economic enterprise made up either of separate
22 parts of a single business entity or of a commonly
23 controlled group of business entities that are
24 sufficiently interdependent, integrated, and interrelated
25 through their activities so as to provide a synergy and
26 mutual benefit that produces a sharing or exchange of

1 value among them and a significant flow of value to the
2 separate parts. A unitary business includes that part of
3 the business that meets the definition in this paragraph
4 (26.5) and is conducted by a taxpayer through the
5 taxpayer's interest in a partnership, whether the interest
6 in that partnership is held directly or indirectly through
7 a series of partnerships or other pass-through entities.

8 (27) Unitary business group.

9 (A) The term "unitary business group" means a
10 group of persons related through common ownership
11 whose business activities are integrated with,
12 dependent upon and contribute to each other. The group
13 will not include those members whose business activity
14 outside the United States is 80% or more of any such
15 member's total business activity; for purposes of this
16 paragraph and clause (a)(3)(B)(ii) of Section 304,
17 business activity within the United States shall be
18 measured by means of the factors ordinarily applicable
19 under subsections (a), (b), (c), (d), or (h) of
20 Section 304 except that, in the case of members
21 ordinarily required to apportion business income by
22 means of the 3 factor formula of property, payroll and
23 sales specified in subsection (a) of Section 304,
24 including the formula as weighted in subsection (h) of
25 Section 304, such members shall not use the sales
26 factor in the computation and the results of the

1 property and payroll factor computations of subsection
2 (a) of Section 304 shall be divided by 2 (by one if
3 either the property or payroll factor has a
4 denominator of zero). The computation required by the
5 preceding sentence shall, in each case, involve the
6 division of the member's property, payroll, or revenue
7 miles in the United States, insurance premiums on
8 property or risk in the United States, or financial
9 organization business income from sources within the
10 United States, as the case may be, by the respective
11 worldwide figures for such items. Common ownership in
12 the case of corporations is the direct or indirect
13 control or ownership of more than 50% of the
14 outstanding voting stock of the persons carrying on
15 unitary business activity. Unitary business activity
16 can ordinarily be illustrated where the activities of
17 the members are: (1) in the same general line (such as
18 manufacturing, wholesaling, retailing of tangible
19 personal property, insurance, transportation or
20 finance); or (2) are steps in a vertically structured
21 enterprise or process (such as the steps involved in
22 the production of natural resources, which might
23 include exploration, mining, refining, and marketing);
24 and, in either instance, the members are functionally
25 integrated through the exercise of strong centralized
26 management (where, for example, authority over such

1 matters as purchasing, financing, tax compliance,
2 product line, personnel, marketing and capital
3 investment is not left to each member).

4 (B) In no event, for taxable years ending prior to
5 December 31, 2017, shall any unitary business group
6 include members which are ordinarily required to
7 apportion business income under different subsections
8 of Section 304 except that for tax years ending on or
9 after December 31, 1987 this prohibition shall not
10 apply to a holding company that would otherwise be a
11 member of a unitary business group with taxpayers that
12 apportion business income under any of subsections
13 (b), (c), (c-1), or (d) of Section 304. If a unitary
14 business group would, but for the preceding sentence,
15 include members that are ordinarily required to
16 apportion business income under different subsections
17 of Section 304, then for each subsection of Section
18 304 for which there are two or more members, there
19 shall be a separate unitary business group composed of
20 such members. For purposes of the preceding two
21 sentences, a member is "ordinarily required to
22 apportion business income" under a particular
23 subsection of Section 304 if it would be required to
24 use the apportionment method prescribed by such
25 subsection except for the fact that it derives
26 business income solely from Illinois. As used in this

1 paragraph, for taxable years ending before December
2 31, 2017, the phrase "United States" means only the 50
3 states and the District of Columbia, but does not
4 include any territory or possession of the United
5 States or any area over which the United States has
6 asserted jurisdiction or claimed exclusive rights with
7 respect to the exploration for or exploitation of
8 natural resources. For taxable years ending on or
9 after December 31, 2017 and beginning prior to January
10 1, 2022, the phrase "United States", as used in this
11 paragraph, means only the 50 states, the District of
12 Columbia, and any area over which the United States
13 has asserted jurisdiction or claimed exclusive rights
14 with respect to the exploration for or exploitation of
15 natural resources, but does not include any territory
16 or possession of the United States. For taxable years
17 beginning on or after January 1, 2022, "United States"
18 means the 50 states of the United States, the District
19 of Columbia, and United States' territories and
20 possessions.

21 (C) Holding companies.

22 (i) For purposes of this subparagraph, a
23 "holding company" is a corporation (other than a
24 corporation that is a financial organization under
25 paragraph (8) of this subsection (a) of Section
26 1501 because it is a bank holding company under

1 the provisions of the Bank Holding Company Act of
2 1956 (12 U.S.C. 1841, et seq.) or because it is
3 owned by a bank or a bank holding company) that
4 owns a controlling interest in one or more other
5 taxpayers ("controlled taxpayers"); that, during
6 the period that includes the taxable year and the
7 2 immediately preceding taxable years or, if the
8 corporation was formed during the current or
9 immediately preceding taxable year, the taxable
10 years in which the corporation has been in
11 existence, derived substantially all its gross
12 income from dividends, interest, rents, royalties,
13 fees or other charges received from controlled
14 taxpayers for the provision of services, and gains
15 on the sale or other disposition of interests in
16 controlled taxpayers or in property leased or
17 licensed to controlled taxpayers or used by the
18 taxpayer in providing services to controlled
19 taxpayers; and that incurs no substantial expenses
20 other than expenses (including interest and other
21 costs of borrowing) incurred in connection with
22 the acquisition and holding of interests in
23 controlled taxpayers and in the provision of
24 services to controlled taxpayers or in the leasing
25 or licensing of property to controlled taxpayers.

26 (ii) The income of a holding company which is

1 a member of more than one unitary business group
2 shall be included in each unitary business group
3 of which it is a member on a pro rata basis, by
4 including in each unitary business group that
5 portion of the base income of the holding company
6 that bears the same proportion to the total base
7 income of the holding company as the gross
8 receipts of the unitary business group bears to
9 the combined gross receipts of all unitary
10 business groups (in both cases without regard to
11 the holding company) or on any other reasonable
12 basis, consistently applied.

13 (iii) A holding company shall apportion its
14 business income under the subsection of Section
15 304 used by the other members of its unitary
16 business group. The apportionment factors of a
17 holding company which would be a member of more
18 than one unitary business group shall be included
19 with the apportionment factors of each unitary
20 business group of which it is a member on a pro
21 rata basis using the same method used in clause
22 (ii).

23 (iv) The provisions of this subparagraph (C)
24 are intended to clarify existing law.

25 (D) If including the base income and factors of a
26 holding company in more than one unitary business

1 group under subparagraph (C) does not fairly reflect
2 the degree of integration between the holding company
3 and one or more of the unitary business groups, the
4 dependence of the holding company and one or more of
5 the unitary business groups upon each other, or the
6 contributions between the holding company and one or
7 more of the unitary business groups, the holding
8 company may petition the Director, under the
9 procedures provided under Section 304(f), for
10 permission to include all base income and factors of
11 the holding company only with members of a unitary
12 business group apportioning their business income
13 under one subsection of subsections (a), (b), (c), or
14 (d) of Section 304. If the petition is granted, the
15 holding company shall be included in a unitary
16 business group only with persons apportioning their
17 business income under the selected subsection of
18 Section 304 until the Director grants a petition of
19 the holding company either to be included in more than
20 one unitary business group under subparagraph (C) or
21 to include its base income and factors only with
22 members of a unitary business group apportioning their
23 business income under a different subsection of
24 Section 304.

25 (E) If the unitary business group members'
26 accounting periods differ, the common parent's

1 accounting period or, if there is no common parent,
2 the accounting period of the member that is expected
3 to have, on a recurring basis, the greatest Illinois
4 income tax liability must be used to determine whether
5 to use the apportionment method provided in subsection
6 (a) or subsection (h) of Section 304. The prohibition
7 against membership in a unitary business group for
8 taxpayers ordinarily required to apportion income
9 under different subsections of Section 304 does not
10 apply to taxpayers required to apportion income under
11 subsection (a) and subsection (h) of Section 304. The
12 provisions of this amendatory Act of 1998 apply to tax
13 years ending on or after December 31, 1998.

14 (28) Subchapter S corporation. The term "Subchapter S
15 corporation" means a corporation for which there is in
16 effect an election under Section 1362 of the Internal
17 Revenue Code, or for which there is a federal election to
18 opt out of the provisions of the Subchapter S Revision Act
19 of 1982 and have applied instead the prior federal
20 Subchapter S rules as in effect on July 1, 1982.

21 (28.1) Tax haven. The term "tax haven" means a
22 jurisdiction that, during the tax year in question, has no
23 or nominal effective tax on the relevant income and:

24 (A) has laws or practices that prevent effective
25 exchange of information for tax purposes with other
26 governments on taxpayers benefiting from the tax

1 regime;

2 (B) has a tax regime that lacks transparency; a
3 tax regime lacks transparency if the details of
4 legislative, legal, or administrative provisions are
5 not open and apparent or are not consistently applied
6 among similarly situated taxpayers, or if the
7 information needed by tax authorities to determine a
8 taxpayer's correct tax liability, such as accounting
9 records and underlying documentation, is not
10 adequately available;

11 (C) facilitates the establishment of foreign-owned
12 entities without the need for a local substantive
13 presence or prohibits these entities from having any
14 commercial impact on the local economy;

15 (D) explicitly or implicitly excludes the
16 jurisdiction's resident taxpayers from taking
17 advantage of the tax regime's benefits or prohibits
18 enterprises that benefit from the regime from
19 operating in the jurisdiction's domestic market; or

20 (E) has created a tax regime that is favorable for
21 tax avoidance, based upon an overall assessment of
22 relevant factors, including whether the jurisdiction
23 has a significant untaxed offshore financial or other
24 services sector relative to its overall economy.

25 (30) Foreign person. The term "foreign person" means
26 any person who is a nonresident alien individual and any

1 nonindividual entity, regardless of where created or
2 organized, whose business activity outside the United
3 States is 80% or more of the entity's total business
4 activity.

5 (b) Other definitions.

6 (1) Words denoting number, gender, and so forth, when
7 used in this Act, where not otherwise distinctly expressed
8 or manifestly incompatible with the intent thereof:

9 (A) Words importing the singular include and apply
10 to several persons, parties or things;

11 (B) Words importing the plural include the
12 singular; and

13 (C) Words importing the masculine gender include
14 the feminine as well.

15 (2) "Company" or "association" as including successors
16 and assigns. The word "company" or "association", when
17 used in reference to a corporation, shall be deemed to
18 embrace the words "successors and assigns of such company
19 or association", and in like manner as if these last-named
20 words, or words of similar import, were expressed.

21 (3) Other terms. Any term used in any Section of this
22 Act with respect to the application of, or in connection
23 with, the provisions of any other Section of this Act
24 shall have the same meaning as in such other Section.

25 (Source: P.A. 99-213, eff. 7-31-15; 100-22, eff. 7-6-17.)