



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

#### HB1704

Introduced 2/22/2007, by Rep. Arthur L. Turner

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203	from Ch. 120, par. 2-203
35 ILCS 5/218 new	
35 ILCS 5/219 new	
35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
35 ILCS 120/2-5	from Ch. 120, par. 441-5

Amends the Illinois Income Tax Act. Allows taxpayers to deduct from their base income an amount equal to the lesser of \$1,500 or 10% of the purchase price of a flexible-fuel vehicle purchased during the taxable year. Sets forth requirements for the deduction. Creates a credit, for taxpayers who are motor-fuel retailers who purchase and install storage and dispensing equipment for alternative fuel. Sets forth the amounts of the credit, including maximum aggregate amounts for all credits. Provides that the credit may be transferred. Provides that the credit may be carried forward for 2 years. Creates a credit for taxpayers who purchase at least 250 gallons of E85 motor fuel. Sets forth the amounts of the credit, including maximum aggregate amounts for all credits. Provides that the credit is refundable. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Exempts flexible-fuel vehicles from taxation under the Acts. Effective immediately.

LRB095 09009 BDD 29200 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 203 and by adding Sections 218 and 219 as  
6 follows:

7 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

8 Sec. 203. Base income defined.

9 (a) Individuals.

10 (1) In general. In the case of an individual, base  
11 income means an amount equal to the taxpayer's adjusted  
12 gross income for the taxable year as modified by paragraph  
13 (2).

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

17 (A) An amount equal to all amounts paid or accrued  
18 to the taxpayer as interest or dividends during the  
19 taxable year to the extent excluded from gross income  
20 in the computation of adjusted gross income, except  
21 stock dividends of qualified public utilities  
22 described in Section 305(e) of the Internal Revenue  
23 Code;

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

5           (C) An amount equal to the amount received during  
6 the taxable year as a recovery or refund of real  
7 property taxes paid with respect to the taxpayer's  
8 principal residence under the Revenue Act of 1939 and  
9 for which a deduction was previously taken under  
10 subparagraph (L) of this paragraph (2) prior to July 1,  
11 1991, the retrospective application date of Article 4  
12 of Public Act 87-17. In the case of multi-unit or  
13 multi-use structures and farm dwellings, the taxes on  
14 the taxpayer's principal residence shall be that  
15 portion of the total taxes for the entire property  
16 which is attributable to such principal residence;

17           (D) An amount equal to the amount of the capital  
18 gain deduction allowable under the Internal Revenue  
19 Code, to the extent deducted from gross income in the  
20 computation of adjusted gross income;

21           (D-5) An amount, to the extent not included in  
22 adjusted gross income, equal to the amount of money  
23 withdrawn by the taxpayer in the taxable year from a  
24 medical care savings account and the interest earned on  
25 the account in the taxable year of a withdrawal  
26 pursuant to subsection (b) of Section 20 of the Medical

1 Care Savings Account Act or subsection (b) of Section  
2 20 of the Medical Care Savings Account Act of 2000;

3 (D-10) For taxable years ending after December 31,  
4 1997, an amount equal to any eligible remediation costs  
5 that the individual deducted in computing adjusted  
6 gross income and for which the individual claims a  
7 credit under subsection (l) of Section 201;

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

13 (D-16) If the taxpayer sells, transfers, abandons,  
14 or otherwise disposes of property for which the  
15 taxpayer was required in any taxable year to make an  
16 addition modification under subparagraph (D-15), then  
17 an amount equal to the aggregate amount of the  
18 deductions taken in all taxable years under  
19 subparagraph (Z) with respect to that property.

20 If the taxpayer continues to own property through  
21 the last day of the last tax year for which the  
22 taxpayer may claim a depreciation deduction for  
23 federal income tax purposes and for which the taxpayer  
24 was allowed in any taxable year to make a subtraction  
25 modification under subparagraph (Z), then an amount  
26 equal to that subtraction modification.

1           The taxpayer is required to make the addition  
2           modification under this subparagraph only once with  
3           respect to any one piece of property;

4           (D-17) For taxable years ending on or after  
5           December 31, 2004, an amount equal to the amount  
6           otherwise allowed as a deduction in computing base  
7           income for interest paid, accrued, or incurred,  
8           directly or indirectly, to a foreign person who would  
9           be a member of the same unitary business group but for  
10          the fact that foreign person's business activity  
11          outside the United States is 80% or more of the foreign  
12          person's total business activity. The addition  
13          modification required by this subparagraph shall be  
14          reduced to the extent that dividends were included in  
15          base income of the unitary group for the same taxable  
16          year and received by the taxpayer or by a member of the  
17          taxpayer's unitary business group (including amounts  
18          included in gross income under Sections 951 through 964  
19          of the Internal Revenue Code and amounts included in  
20          gross income under Section 78 of the Internal Revenue  
21          Code) with respect to the stock of the same person to  
22          whom the interest was paid, accrued, or incurred.

23           This paragraph shall not apply to the following:

24           (i) an item of interest paid, accrued, or  
25           incurred, directly or indirectly, to a foreign  
26           person who is subject in a foreign country or

1 state, other than a state which requires mandatory  
2 unitary reporting, to a tax on or measured by net  
3 income with respect to such interest; or

4 (ii) an item of interest paid, accrued, or  
5 incurred, directly or indirectly, to a foreign  
6 person if the taxpayer can establish, based on a  
7 preponderance of the evidence, both of the  
8 following:

9 (a) the foreign person, during the same  
10 taxable year, paid, accrued, or incurred, the  
11 interest to a person that is not a related  
12 member, and

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

20 (iii) the taxpayer can establish, based on  
21 clear and convincing evidence, that the interest  
22 paid, accrued, or incurred relates to a contract or  
23 agreement entered into at arm's-length rates and  
24 terms and the principal purpose for the payment is  
25 not federal or Illinois tax avoidance; or

26 (iv) an item of interest paid, accrued, or

1           incurred, directly or indirectly, to a foreign  
2           person if the taxpayer establishes by clear and  
3           convincing evidence that the adjustments are  
4           unreasonable; or if the taxpayer and the Director  
5           agree in writing to the application or use of an  
6           alternative method of apportionment under Section  
7           304(f).

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

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

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



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

3 This paragraph shall not apply to the following:

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

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

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

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

1           (iii) any item of intangible expense or cost  
2           paid, accrued, or incurred, directly or  
3           indirectly, from a transaction with a foreign  
4           person if the taxpayer establishes by clear and  
5           convincing evidence, that the adjustments are  
6           unreasonable; or if the taxpayer and the Director  
7           agree in writing to the application or use of an  
8           alternative method of apportionment under Section  
9           304(f);

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

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

1 Section 529(c)(3)(B);

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

4 (E) For taxable years ending before December 31,  
5 2001, any amount included in such total in respect of  
6 any compensation (including but not limited to any  
7 compensation paid or accrued to a serviceman while a  
8 prisoner of war or missing in action) paid to a  
9 resident by reason of being on active duty in the Armed  
10 Forces of the United States and in respect of any  
11 compensation paid or accrued to a resident who as a  
12 governmental employee was a prisoner of war or missing  
13 in action, and in respect of any compensation paid to a  
14 resident in 1971 or thereafter for annual training  
15 performed pursuant to Sections 502 and 503, Title 32,  
16 United States Code as a member of the Illinois National  
17 Guard. For taxable years ending on or after December  
18 31, 2001, any amount included in such total in respect  
19 of any compensation (including but not limited to any  
20 compensation paid or accrued to a serviceman while a  
21 prisoner of war or missing in action) paid to a  
22 resident by reason of being a member of any component  
23 of the Armed Forces of the United States and in respect  
24 of any compensation paid or accrued to a resident who  
25 as a governmental employee was a prisoner of war or  
26 missing in action, and in respect of any compensation

1           paid to a resident in 2001 or thereafter by reason of  
2           being a member of the Illinois National Guard. The  
3           provisions of this amendatory Act of the 92nd General  
4           Assembly are exempt from the provisions of Section 250;

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

16          (G) The valuation limitation amount;

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

20          (I) An amount equal to all amounts included in such  
21          total pursuant to the provisions of Section 111 of the  
22          Internal Revenue Code as a recovery of items previously  
23          deducted from adjusted gross income in the computation  
24          of taxable income;

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

1 conducts business operations in an Enterprise Zone or  
2 zones created under the Illinois Enterprise Zone Act or  
3 a River Edge Redevelopment Zone or zones created under  
4 the River Edge Redevelopment Zone Act, and conducts  
5 substantially all of its operations in an Enterprise  
6 Zone or zones or a River Edge Redevelopment Zone or  
7 zones. This subparagraph (J) is exempt from the  
8 provisions of Section 250;

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

18 (L) For taxable years ending after December 31,  
19 1983, an amount equal to all social security benefits  
20 and railroad retirement benefits included in such  
21 total pursuant to Sections 72(r) and 86 of the Internal  
22 Revenue Code;

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

1 1954, as now or hereafter amended, and all amounts of  
2 expenses allocable to interest and disallowed as  
3 deductions by Section 265(1) of the Internal Revenue  
4 Code of 1954, as now or hereafter amended; and (ii) for  
5 taxable years ending on or after August 13, 1999,  
6 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
7 the Internal Revenue Code; the provisions of this  
8 subparagraph are exempt from the provisions of Section  
9 250;

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

19 (O) An amount equal to any contribution made to a  
20 job training project established pursuant to the Tax  
21 Increment Allocation Redevelopment Act;

22 (P) An amount equal to the amount of the deduction  
23 used to compute the federal income tax credit for  
24 restoration of substantial amounts held under claim of  
25 right for the taxable year pursuant to Section 1341 of  
26 the Internal Revenue Code of 1986;

1           (Q) An amount equal to any amounts included in such  
2 total, received by the taxpayer as an acceleration in  
3 the payment of life, endowment or annuity benefits in  
4 advance of the time they would otherwise be payable as  
5 an indemnity for a terminal illness;

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

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

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

23           (U) For one taxable year beginning on or after  
24 January 1, 1994, an amount equal to the total amount of  
25 tax imposed and paid under subsections (a) and (b) of  
26 Section 201 of this Act on grant amounts received by

1 the taxpayer under the Nursing Home Grant Assistance  
2 Act during the taxpayer's taxable years 1992 and 1993;

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



1 percentage of eligible medical expenses under Section  
2 213 of the Internal Revenue Code of 1986 not actually  
3 deducted on the taxpayer's federal income tax return;

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

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

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

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

1 State Treasurer Act or (ii) the Illinois Prepaid  
2 Tuition Trust Fund, except that amounts excluded from  
3 gross income under Section 529(c)(3)(C)(i) of the  
4 Internal Revenue Code shall not be considered moneys  
5 contributed under this subparagraph (Y). This  
6 subparagraph (Y) is exempt from the provisions of  
7 Section 250;

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

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

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

25 (3) for taxable years ending after December  
26 31, 2005:

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

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

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

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

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

1 was required in any taxable year to make an addition  
2 modification under subparagraph (D-15), then an amount  
3 equal to that addition modification.

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

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

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

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

1 addition modification;

2 (DD) An amount equal to the interest income taken  
3 into account for the taxable year (net of the  
4 deductions allocable thereto) with respect to  
5 transactions with a foreign person who would be a  
6 member of the taxpayer's unitary business group but for  
7 the fact that the foreign person's business activity  
8 outside the United States is 80% or more of that  
9 person's total business activity, but not to exceed the  
10 addition modification required to be made for the same  
11 taxable year under Section 203(a)(2)(D-17) for  
12 interest paid, accrued, or incurred, directly or  
13 indirectly, to the same foreign person; ~~and~~

14 (EE) An amount equal to the income from intangible  
15 property taken into account for the taxable year (net  
16 of the deductions allocable thereto) with respect to  
17 transactions with a foreign person who would be a  
18 member of the taxpayer's unitary business group but for  
19 the fact that the foreign person's business activity  
20 outside the United States is 80% or more of that  
21 person's total business activity, but not to exceed the  
22 addition modification required to be made for the same  
23 taxable year under Section 203(a)(2)(D-18) for  
24 intangible expenses and costs paid, accrued, or  
25 incurred, directly or indirectly, to the same foreign  
26 person ; and.

1           (FF) For taxable years ending on or after December  
2           31, 2008 and on or before December 30, 2014, if the  
3           taxpayer purchased a flexible-fuel vehicle during the  
4           taxable year, then an amount equal to the lesser of  
5           \$1,500 or 10% of the purchase price of that vehicle.  
6           The deduction under this subparagraph (FF) must be  
7           reduced by any amount that the taxpayer deducted from  
8           his or her federal adjusted gross income with respect  
9           to the purchase of any vehicle for which the taxpayer  
10           makes a deduction under this subparagraph. For the  
11           purposes of this subparagraph, "flexible-fuel vehicle"  
12           means a vehicle that is capable of running on E85-blend  
13           fuel.

14           (b) Corporations.

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

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

21           (A) An amount equal to all amounts paid or accrued  
22           to the taxpayer as interest and all distributions  
23           received from regulated investment companies during  
24           the taxable year to the extent excluded from gross  
25           income in the computation of taxable income;

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

4           (C) In the case of a regulated investment company,  
5 an amount equal to the excess of (i) the net long-term  
6 capital gain for the taxable year, over (ii) the amount  
7 of the capital gain dividends designated as such in  
8 accordance with Section 852(b)(3)(C) of the Internal  
9 Revenue Code and any amount designated under Section  
10 852(b)(3)(D) of the Internal Revenue Code,  
11 attributable to the taxable year (this amendatory Act  
12 of 1995 (Public Act 89-89) is declarative of existing  
13 law and is not a new enactment);

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

18           (E) For taxable years in which a net operating loss  
19 carryback or carryforward from a taxable year ending  
20 prior to December 31, 1986 is an element of taxable  
21 income under paragraph (1) of subsection (e) or  
22 subparagraph (E) of paragraph (2) of subsection (e),  
23 the amount by which addition modifications other than  
24 those provided by this subparagraph (E) exceeded  
25 subtraction modifications in such earlier taxable  
26 year, with the following limitations applied in the



1 order that they are listed:

2 (i) the addition modification relating to the  
3 net operating loss carried back or forward to the  
4 taxable year from any taxable year ending prior to  
5 December 31, 1986 shall be reduced by the amount of  
6 addition modification under this subparagraph (E)  
7 which related to that net operating loss and which  
8 was taken into account in calculating the base  
9 income of an earlier taxable year, and

10 (ii) the addition modification relating to the  
11 net operating loss carried back or forward to the  
12 taxable year from any taxable year ending prior to  
13 December 31, 1986 shall not exceed the amount of  
14 such carryback or carryforward;

15 For taxable years in which there is a net operating  
16 loss carryback or carryforward from more than one other  
17 taxable year ending prior to December 31, 1986, the  
18 addition modification provided in this subparagraph  
19 (E) shall be the sum of the amounts computed  
20 independently under the preceding provisions of this  
21 subparagraph (E) for each such taxable year;

22 (E-5) For taxable years ending after December 31,  
23 1997, an amount equal to any eligible remediation costs  
24 that the corporation deducted in computing adjusted  
25 gross income and for which the corporation claims a  
26 credit under subsection (1) of Section 201;

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

6           (E-11) If the taxpayer sells, transfers, abandons,  
7 or otherwise disposes of property for which the  
8 taxpayer was required in any taxable year to make an  
9 addition modification under subparagraph (E-10), then  
10 an amount equal to the aggregate amount of the  
11 deductions taken in all taxable years under  
12 subparagraph (T) with respect to that property.

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

20           The taxpayer is required to make the addition  
21 modification under this subparagraph only once with  
22 respect to any one piece of property;

23           (E-12) For taxable years ending on or after  
24 December 31, 2004, an amount equal to the amount  
25 otherwise allowed as a deduction in computing base  
26 income for interest paid, accrued, or incurred,

1 directly or indirectly, to a foreign person who would  
2 be a member of the same unitary business group but for  
3 the fact the foreign person's business activity  
4 outside the United States is 80% or more of the foreign  
5 person's total business activity. The addition  
6 modification required by this subparagraph shall be  
7 reduced to the extent that dividends were included in  
8 base income of the unitary group for the same taxable  
9 year and received by the taxpayer or by a member of the  
10 taxpayer's unitary business group (including amounts  
11 included in gross income pursuant to Sections 951  
12 through 964 of the Internal Revenue Code and amounts  
13 included in gross income under Section 78 of the  
14 Internal Revenue Code) with respect to the stock of the  
15 same person to whom the interest was paid, accrued, or  
16 incurred.

17 This paragraph shall not apply to the following:

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

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

1           preponderance of the evidence, both of the  
2           following:

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

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

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

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

1           304(f).

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

11          (E-13) For taxable years ending on or after  
12          December 31, 2004, an amount equal to the amount of  
13          intangible expenses and costs otherwise allowed as a  
14          deduction in computing base income, and that were paid,  
15          accrued, or incurred, directly or indirectly, to a  
16          foreign person who would be a member of the same  
17          unitary business group but for the fact that the  
18          foreign person's business activity outside the United  
19          States is 80% or more of that person's total business  
20          activity. The addition modification required by this  
21          subparagraph shall be reduced to the extent that  
22          dividends were included in base income of the unitary  
23          group for the same taxable year and received by the  
24          taxpayer or by a member of the taxpayer's unitary  
25          business group (including amounts included in gross  
26          income pursuant to Sections 951 through 964 of the

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

23 This paragraph shall not apply to the following:

24 (i) any item of intangible expenses or costs  
25 paid, accrued, or incurred, directly or  
26 indirectly, from a transaction with a foreign

1 person who is subject in a foreign country or  
2 state, other than a state which requires mandatory  
3 unitary reporting, to a tax on or measured by net  
4 income with respect to such item; or

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

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

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

20 or

21 (iii) any item of intangible expense or cost  
22 paid, accrued, or incurred, directly or  
23 indirectly, from a transaction with a foreign  
24 person if the taxpayer establishes by clear and  
25 convincing evidence, that the adjustments are  
26 unreasonable; or if the taxpayer and the Director

1 agree in writing to the application or use of an  
2 alternative method of apportionment under Section  
3 304(f);

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

13 and by deducting from the total so obtained the sum of the  
14 following amounts:

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

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

20 (H) In the case of a regulated investment company,  
21 an amount equal to the amount of exempt interest  
22 dividends as defined in subsection (b) (5) of Section  
23 852 of the Internal Revenue Code, paid to shareholders  
24 for the taxable year;

25 (I) With the exception of any amounts subtracted  
26 under subparagraph (J), an amount equal to the sum of



1 all amounts disallowed as deductions by (i) Sections  
2 171(a) (2), and 265(a)(2) and amounts disallowed as  
3 interest expense by Section 291(a)(3) of the Internal  
4 Revenue Code, as now or hereafter amended, and all  
5 amounts of expenses allocable to interest and  
6 disallowed as deductions by Section 265(a)(1) of the  
7 Internal Revenue Code, as now or hereafter amended; and  
8 (ii) for taxable years ending on or after August 13,  
9 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and  
10 832(b)(5)(B)(i) of the Internal Revenue Code; the  
11 provisions of this subparagraph are exempt from the  
12 provisions of Section 250;

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

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

1 the River Edge Redevelopment Zone Act and conducts  
2 substantially all of its operations in an Enterprise  
3 Zone or zones or a River Edge Redevelopment Zone or  
4 zones. This subparagraph (K) is exempt from the  
5 provisions of Section 250;

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

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

1 the basis of the Section 201(f) investment credit  
2 property which secures the loan or loans, using for  
3 this purpose the original basis of such property on the  
4 date that it was placed in service in the Enterprise  
5 Zone or the River Edge Redevelopment Zone. The  
6 subtraction modification available to taxpayer in any  
7 year under this subsection shall be that portion of the  
8 total interest paid by the borrower with respect to  
9 such loan attributable to the eligible property as  
10 calculated under the previous sentence. This  
11 subparagraph (M) is exempt from the provisions of  
12 Section 250;

13 (M-1) For any taxpayer that is a financial  
14 organization within the meaning of Section 304(c) of  
15 this Act, an amount included in such total as interest  
16 income from a loan or loans made by such taxpayer to a  
17 borrower, to the extent that such a loan is secured by  
18 property which is eligible for the High Impact Business  
19 Investment Credit. To determine the portion of a loan  
20 or loans that is secured by property eligible for a  
21 Section 201(h) investment credit to the borrower, the  
22 entire principal amount of the loan or loans between  
23 the taxpayer and the borrower should be divided into  
24 the basis of the Section 201(h) investment credit  
25 property which secures the loan or loans, using for  
26 this purpose the original basis of such property on the

1 date that it was placed in service in a federally  
2 designated Foreign Trade Zone or Sub-Zone located in  
3 Illinois. No taxpayer that is eligible for the  
4 deduction provided in subparagraph (M) of paragraph  
5 (2) of this subsection shall be eligible for the  
6 deduction provided under this subparagraph (M-1). The  
7 subtraction modification available to taxpayers in any  
8 year under this subsection shall be that portion of the  
9 total interest paid by the borrower with respect to  
10 such loan attributable to the eligible property as  
11 calculated under the previous sentence;

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

23 (O) An amount equal to: (i) 85% for taxable years  
24 ending on or before December 31, 1992, or, a percentage  
25 equal to the percentage allowable under Section  
26 243(a)(1) of the Internal Revenue Code of 1986 for

1 taxable years ending after December 31, 1992, of the  
2 amount by which dividends included in taxable income  
3 and received from a corporation that is not created or  
4 organized under the laws of the United States or any  
5 state or political subdivision thereof, including, for  
6 taxable years ending on or after December 31, 1988,  
7 dividends received or deemed received or paid or deemed  
8 paid under Sections 951 through 964 of the Internal  
9 Revenue Code, exceed the amount of the modification  
10 provided under subparagraph (G) of paragraph (2) of  
11 this subsection (b) which is related to such dividends;  
12 plus (ii) 100% of the amount by which dividends,  
13 included in taxable income and received, including,  
14 for taxable years ending on or after December 31, 1988,  
15 dividends received or deemed received or paid or deemed  
16 paid under Sections 951 through 964 of the Internal  
17 Revenue Code, from any such corporation specified in  
18 clause (i) that would but for the provisions of Section  
19 1504 (b) (3) of the Internal Revenue Code be treated as  
20 a member of the affiliated group which includes the  
21 dividend recipient, exceed the amount of the  
22 modification provided under subparagraph (G) of  
23 paragraph (2) of this subsection (b) which is related  
24 to such dividends;

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

1 Increment Allocation Redevelopment Act;

2 (Q) An amount equal to the amount of the deduction  
3 used to compute the federal income tax credit for  
4 restoration of substantial amounts held under claim of  
5 right for the taxable year pursuant to Section 1341 of  
6 the Internal Revenue Code of 1986;

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

20 (S) For taxable years ending on or after December  
21 31, 1997, in the case of a Subchapter S corporation, an  
22 amount equal to all amounts of income allocable to a  
23 shareholder subject to the Personal Property Tax  
24 Replacement Income Tax imposed by subsections (c) and  
25 (d) of Section 201 of this Act, including amounts  
26 allocable to organizations exempt from federal income

1 tax by reason of Section 501(a) of the Internal Revenue  
2 Code. This subparagraph (S) is exempt from the  
3 provisions of Section 250;

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

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

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

21 (3) for taxable years ending after December  
22 31, 2005:

23 (i) for property on which a bonus  
24 depreciation deduction of 30% of the adjusted  
25 basis was taken, "x" equals "y" multiplied by  
26 30 and then divided by 70 (or "y" multiplied by

1                   0.429); and  
2                   (ii) for property on which a bonus  
3                   depreciation deduction of 50% of the adjusted  
4                   basis was taken, "x" equals "y" multiplied by  
5                   1.0.

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

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

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

26                  The taxpayer is allowed to take the deduction under



1           this subparagraph only once with respect to any one  
2           piece of property.

3           This subparagraph (U) is exempt from the  
4           provisions of Section 250;

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

21          (W) An amount equal to the interest income taken  
22          into account for the taxable year (net of the  
23          deductions allocable thereto) with respect to  
24          transactions with a foreign person who would be a  
25          member of the taxpayer's unitary business group but for  
26          the fact that the foreign person's business activity

1 outside the United States is 80% or more of that  
2 person's total business activity, but not to exceed the  
3 addition modification required to be made for the same  
4 taxable year under Section 203(b)(2)(E-12) for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, to the same foreign person; ~~and~~

7 (X) An amount equal to the income from intangible  
8 property taken into account for the taxable year (net  
9 of the deductions allocable thereto) with respect to  
10 transactions with a foreign person who would be a  
11 member of the taxpayer's unitary business group but for  
12 the fact that the foreign person's business activity  
13 outside the United States is 80% or more of that  
14 person's total business activity, but not to exceed the  
15 addition modification required to be made for the same  
16 taxable year under Section 203(b)(2)(E-13) for  
17 intangible expenses and costs paid, accrued, or  
18 incurred, directly or indirectly, to the same foreign  
19 person; ~~and~~

20 (Y) For taxable years ending on or after December  
21 31, 2008 and on or before December 30, 2014, if the  
22 taxpayer purchased a flexible-fuel vehicle during the  
23 taxable year, then an amount equal to the lesser of  
24 \$1,500 or 10% of the purchase price of that vehicle.  
25 The deduction under this subparagraph (Y) must be  
26 reduced by any amount that the taxpayer deducted from

1           his or her federal adjusted gross income with respect  
2           to the purchase of any vehicle for which the taxpayer  
3           makes a deduction under this subparagraph. For the  
4           purposes of this subparagraph, "flexible-fuel vehicle"  
5           means a vehicle that is capable of running on E85-blend  
6           fuel.

7           (3) Special rule. For purposes of paragraph (2) (A),  
8           "gross income" in the case of a life insurance company, for  
9           tax years ending on and after December 31, 1994, shall mean  
10          the gross investment income for the taxable year.

11          (c) Trusts and estates.

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

15           (2) Modifications. Subject to the provisions of  
16           paragraph (3), the taxable income referred to in paragraph  
17           (1) shall be modified by adding thereto the sum of the  
18           following amounts:

19           (A) An amount equal to all amounts paid or accrued  
20           to the taxpayer as interest or dividends during the  
21           taxable year to the extent excluded from gross income  
22           in the computation of taxable income;

23           (B) In the case of (i) an estate, \$600; (ii) a  
24           trust which, under its governing instrument, is  
25           required to distribute all of its income currently,

1           \$300; and (iii) any other trust, \$100, but in each such  
2 case, only to the extent such amount was deducted in  
3 the computation of taxable income;

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

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

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

21           (i) the addition modification relating to the  
22 net operating loss carried back or forward to the  
23 taxable year from any taxable year ending prior to  
24 December 31, 1986 shall be reduced by the amount of  
25 addition modification under this subparagraph (E)  
26 which related to that net operating loss and which

1           was taken into account in calculating the base  
2           income of an earlier taxable year, and

3                   (ii) the addition modification relating to the  
4           net operating loss carried back or forward to the  
5           taxable year from any taxable year ending prior to  
6           December 31, 1986 shall not exceed the amount of  
7           such carryback or carryforward;

8           For taxable years in which there is a net operating  
9           loss carryback or carryforward from more than one other  
10          taxable year ending prior to December 31, 1986, the  
11          addition modification provided in this subparagraph  
12          (E) shall be the sum of the amounts computed  
13          independently under the preceding provisions of this  
14          subparagraph (E) for each such taxable year;

15                  (F) For taxable years ending on or after January 1,  
16          1989, an amount equal to the tax deducted pursuant to  
17          Section 164 of the Internal Revenue Code if the trust  
18          or estate is claiming the same tax for purposes of the  
19          Illinois foreign tax credit under Section 601 of this  
20          Act;

21                  (G) An amount equal to the amount of the capital  
22          gain deduction allowable under the Internal Revenue  
23          Code, to the extent deducted from gross income in the  
24          computation of taxable income;

25                  (G-5) For taxable years ending after December 31,  
26          1997, an amount equal to any eligible remediation costs

1           that the trust or estate deducted in computing adjusted  
2 gross income and for which the trust or estate claims a  
3 credit under subsection (l) of Section 201;

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

9           (G-11) If the taxpayer sells, transfers, abandons,  
10 or otherwise disposes of property for which the  
11 taxpayer was required in any taxable year to make an  
12 addition modification under subparagraph (G-10), then  
13 an amount equal to the aggregate amount of the  
14 deductions taken in all taxable years under  
15 subparagraph (R) with respect to that property.

16           If the taxpayer continues to own property through  
17 the last day of the last tax year for which the  
18 taxpayer may claim a depreciation deduction for  
19 federal income tax purposes and for which the taxpayer  
20 was allowed in any taxable year to make a subtraction  
21 modification under subparagraph (R), then an amount  
22 equal to that subtraction modification.

23           The taxpayer is required to make the addition  
24 modification under this subparagraph only once with  
25 respect to any one piece of property;

26           (G-12) For taxable years ending on or after

1 December 31, 2004, an amount equal to the amount  
2 otherwise allowed as a deduction in computing base  
3 income for interest paid, accrued, or incurred,  
4 directly or indirectly, to a foreign person who would  
5 be a member of the same unitary business group but for  
6 the fact that the foreign person's business activity  
7 outside the United States is 80% or more of the foreign  
8 person's total business activity. The addition  
9 modification required by this subparagraph shall be  
10 reduced to the extent that dividends were included in  
11 base income of the unitary group for the same taxable  
12 year and received by the taxpayer or by a member of the  
13 taxpayer's unitary business group (including amounts  
14 included in gross income pursuant to Sections 951  
15 through 964 of the Internal Revenue Code and amounts  
16 included in gross income under Section 78 of the  
17 Internal Revenue Code) with respect to the stock of the  
18 same person to whom the interest was paid, accrued, or  
19 incurred.

20 This paragraph shall not apply to the following:

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

1           (ii) an item of interest paid, accrued, or  
2 incurred, directly or indirectly, to a foreign  
3 person if the taxpayer can establish, based on a  
4 preponderance of the evidence, both of the  
5 following:

6           (a) the foreign person, during the same  
7 taxable year, paid, accrued, or incurred, the  
8 interest to a person that is not a related  
9 member, and

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

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

23           (iv) an item of interest paid, accrued, or  
24 incurred, directly or indirectly, to a foreign  
25 person if the taxpayer establishes by clear and  
26 convincing evidence that the adjustments are



1           unreasonable; or if the taxpayer and the Director  
2           agree in writing to the application or use of an  
3           alternative method of apportionment under Section  
4           304(f).

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

14          (G-13) For taxable years ending on or after  
15          December 31, 2004, an amount equal to the amount of  
16          intangible expenses and costs otherwise allowed as a  
17          deduction in computing base income, and that were paid,  
18          accrued, or incurred, directly or indirectly, to a  
19          foreign person who would be a member of the same  
20          unitary business group but for the fact that the  
21          foreign person's business activity outside the United  
22          States is 80% or more of that person's total business  
23          activity. The addition modification required by this  
24          subparagraph shall be reduced to the extent that  
25          dividends were included in base income of the unitary  
26          group for the same taxable year and received by the

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

26 This paragraph shall not apply to the following:

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

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

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

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

24           (iii) any item of intangible expense or cost  
25           paid, accrued, or incurred, directly or  
26           indirectly, from a transaction with a foreign

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

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

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

18 (H) An amount equal to all amounts included in such  
19 total pursuant to the provisions of Sections 402(a),  
20 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
21 Internal Revenue Code or included in such total as  
22 distributions under the provisions of any retirement  
23 or disability plan for employees of any governmental  
24 agency or unit, or retirement payments to retired  
25 partners, which payments are excluded in computing net  
26 earnings from self employment by Section 1402 of the

1 Internal Revenue Code and regulations adopted pursuant  
2 thereto;

3 (I) The valuation limitation amount;

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

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

18 (L) With the exception of any amounts subtracted  
19 under subparagraph (K), an amount equal to the sum of  
20 all amounts disallowed as deductions by (i) Sections  
21 171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
22 as now or hereafter amended, and all amounts of  
23 expenses allocable to interest and disallowed as  
24 deductions by Section 265(1) of the Internal Revenue  
25 Code of 1954, as now or hereafter amended; and (ii) for  
26 taxable years ending on or after August 13, 1999,

1 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
2 the Internal Revenue Code; the provisions of this  
3 subparagraph are exempt from the provisions of Section  
4 250;

5 (M) An amount equal to those dividends included in  
6 such total which were paid by a corporation which  
7 conducts business operations in an Enterprise Zone or  
8 zones created under the Illinois Enterprise Zone Act or  
9 a River Edge Redevelopment Zone or zones created under  
10 the River Edge Redevelopment Zone Act and conducts  
11 substantially all of its operations in an Enterprise  
12 Zone or Zones or a River Edge Redevelopment Zone or  
13 zones. This subparagraph (M) is exempt from the  
14 provisions of Section 250;

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

18 (O) An amount equal to those dividends included in  
19 such total that were paid by a corporation that  
20 conducts business operations in a federally designated  
21 Foreign Trade Zone or Sub-Zone and that is designated a  
22 High Impact Business located in Illinois; provided  
23 that dividends eligible for the deduction provided in  
24 subparagraph (M) of paragraph (2) of this subsection  
25 shall not be eligible for the deduction provided under  
26 this subparagraph (O);

1           (P) An amount equal to the amount of the deduction  
2 used to compute the federal income tax credit for  
3 restoration of substantial amounts held under claim of  
4 right for the taxable year pursuant to Section 1341 of  
5 the Internal Revenue Code of 1986;

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

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

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

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

26 (2) for taxable years ending on or before



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

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

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

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

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

23 (S) If the taxpayer sells, transfers, abandons, or  
24 otherwise disposes of property for which the taxpayer  
25 was required in any taxable year to make an addition  
26 modification under subparagraph (G-10), then an amount

1 equal to that addition modification.

2 If the taxpayer continues to own property through  
3 the last day of the last tax year for which the  
4 taxpayer may claim a depreciation deduction for  
5 federal income tax purposes and for which the taxpayer  
6 was required in any taxable year to make an addition  
7 modification under subparagraph (G-10), then an amount  
8 equal to that addition modification.

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

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
2 203(d)(2)(D-8), but not to exceed the amount of such  
3 addition modification;

4 (U) An amount equal to the interest income taken  
5 into account for the taxable year (net of the  
6 deductions allocable thereto) with respect to  
7 transactions with a foreign person who would be a  
8 member of the taxpayer's unitary business group but for  
9 the fact the foreign person's business activity  
10 outside the United States is 80% or more of that  
11 person's total business activity, but not to exceed the  
12 addition modification required to be made for the same  
13 taxable year under Section 203(c)(2)(G-12) for  
14 interest paid, accrued, or incurred, directly or  
15 indirectly, to the same foreign person; ~~and~~

16 (V) An amount equal to the income from intangible  
17 property taken into account for the taxable year (net  
18 of the deductions allocable thereto) with respect to  
19 transactions with a foreign person who would be a  
20 member of the taxpayer's unitary business group but for  
21 the fact that the foreign person's business activity  
22 outside the United States is 80% or more of that  
23 person's total business activity, but not to exceed the  
24 addition modification required to be made for the same  
25 taxable year under Section 203(c)(2)(G-13) for  
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign  
2 person; ~~and~~

3 (W) For taxable years ending on or after December  
4 31, 2008 and on or before December 30, 2014, if the  
5 taxpayer purchased a flexible-fuel vehicle during the  
6 taxable year, then an amount equal to the lesser of  
7 \$1,500 or 10% of the purchase price of that vehicle.  
8 The deduction under this subparagraph (W) must be  
9 reduced by any amount that the taxpayer deducted from  
10 his or her federal adjusted gross income with respect  
11 to the purchase of any vehicle for which the taxpayer  
12 makes a deduction under this subparagraph. For the  
13 purposes of this subparagraph, "flexible-fuel vehicle"  
14 means a vehicle that is capable of running on E85-blend  
15 fuel.

16 (3) Limitation. The amount of any modification  
17 otherwise required under this subsection shall, under  
18 regulations prescribed by the Department, be adjusted by  
19 any amounts included therein which were properly paid,  
20 credited, or required to be distributed, or permanently set  
21 aside for charitable purposes pursuant to Internal Revenue  
22 Code Section 642(c) during the taxable year.

23 (d) Partnerships.

24 (1) In general. In the case of a partnership, base  
25 income means an amount equal to the taxpayer's taxable

1 income for the taxable year as modified by paragraph (2).

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

5 (A) An amount equal to all amounts paid or accrued  
6 to the taxpayer as interest or dividends during the  
7 taxable year to the extent excluded from gross income  
8 in the computation of taxable income;

9 (B) An amount equal to the amount of tax imposed by  
10 this Act to the extent deducted from gross income for  
11 the taxable year;

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

15 (D) An amount equal to the amount of the capital  
16 gain deduction allowable under the Internal Revenue  
17 Code, to the extent deducted from gross income in the  
18 computation of taxable income;

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

24 (D-6) If the taxpayer sells, transfers, abandons,  
25 or otherwise disposes of property for which the  
26 taxpayer was required in any taxable year to make an

1 addition modification under subparagraph (D-5), then  
2 an amount equal to the aggregate amount of the  
3 deductions taken in all taxable years under  
4 subparagraph (O) with respect to that property.

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

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

15 (D-7) For taxable years ending on or after December  
16 31, 2004, an amount equal to the amount otherwise  
17 allowed as a deduction in computing base income for  
18 interest paid, accrued, or incurred, directly or  
19 indirectly, to a foreign person who would be a member  
20 of the same unitary business group but for the fact the  
21 foreign person's business activity outside the United  
22 States is 80% or more of the foreign person's total  
23 business activity. The addition modification required  
24 by this subparagraph shall be reduced to the extent  
25 that dividends were included in base income of the  
26 unitary group for the same taxable year and received by

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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



1 under Section 404 of this Act; and

2 (D-8) For taxable years ending on or after December  
3 31, 2004, an amount equal to the amount of intangible  
4 expenses and costs otherwise allowed as a deduction in  
5 computing base income, and that were paid, accrued, or  
6 incurred, directly or indirectly, to a foreign person  
7 who would be a member of the same unitary business  
8 group but for the fact that the foreign person's  
9 business activity outside the United States is 80% or  
10 more of that person's total business activity. The  
11 addition modification required by this subparagraph  
12 shall be reduced to the extent that dividends were  
13 included in base income of the unitary group for the  
14 same taxable year and received by the taxpayer or by a  
15 member of the taxpayer's unitary business group  
16 (including amounts included in gross income pursuant  
17 to Sections 951 through 964 of the Internal Revenue  
18 Code and amounts included in gross income under Section  
19 78 of the Internal Revenue Code) with respect to the  
20 stock of the same person to whom the intangible  
21 expenses and costs were directly or indirectly paid,  
22 incurred or accrued. The preceding sentence shall not  
23 apply to the extent that the same dividends caused a  
24 reduction to the addition modification required under  
25 Section 203(d)(2)(D-7) of this Act. As used in this  
26 subparagraph, the term "intangible expenses and costs"

1 includes (1) expenses, losses, and costs for, or  
2 related to, the direct or indirect acquisition, use,  
3 maintenance or management, ownership, sale, exchange,  
4 or any other disposition of intangible property; (2)  
5 losses incurred, directly or indirectly, from  
6 factoring transactions or discounting transactions;  
7 (3) royalty, patent, technical, and copyright fees;  
8 (4) licensing fees; and (5) other similar expenses and  
9 costs. For purposes of this subparagraph, "intangible  
10 property" includes patents, patent applications, trade  
11 names, trademarks, service marks, copyrights, mask  
12 works, trade secrets, and similar types of intangible  
13 assets;

14 This paragraph shall not apply to the following:

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

22 (ii) any item of intangible expense or cost  
23 paid, accrued, or incurred, directly or  
24 indirectly, if the taxpayer can establish, based  
25 on a preponderance of the evidence, both of the  
26 following:

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

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

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

21           Nothing in this subsection shall preclude the  
22 Director from making any other adjustment  
23 otherwise allowed under Section 404 of this Act for  
24 any tax year beginning after the effective date of  
25 this amendment provided such adjustment is made  
26 pursuant to regulation adopted by the Department

1           and such regulations provide methods and standards  
2           by which the Department will utilize its authority  
3           under Section 404 of this Act;

4           and by deducting from the total so obtained the following  
5           amounts:

6                   (E) The valuation limitation amount;

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

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

20                  (H) Any income of the partnership which  
21           constitutes personal service income as defined in  
22           Section 1348 (b) (1) of the Internal Revenue Code (as  
23           in effect December 31, 1981) or a reasonable allowance  
24           for compensation paid or accrued for services rendered  
25           by partners to the partnership, whichever is greater;

26                  (I) An amount equal to all amounts of income

1 distributable to an entity subject to the Personal  
2 Property Tax Replacement Income Tax imposed by  
3 subsections (c) and (d) of Section 201 of this Act  
4 including amounts distributable to organizations  
5 exempt from federal income tax by reason of Section  
6 501(a) of the Internal Revenue Code;

7 (J) With the exception of any amounts subtracted  
8 under subparagraph (G), an amount equal to the sum of  
9 all amounts disallowed as deductions by (i) Sections  
10 171(a) (2), and 265(2) of the Internal Revenue Code of  
11 1954, as now or hereafter amended, and all amounts of  
12 expenses allocable to interest and disallowed as  
13 deductions by Section 265(1) of the Internal Revenue  
14 Code, as now or hereafter amended; and (ii) for taxable  
15 years ending on or after August 13, 1999, Sections  
16 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the  
17 Internal Revenue Code; the provisions of this  
18 subparagraph are exempt from the provisions of Section  
19 250;

20 (K) An amount equal to those dividends included in  
21 such total which were paid by a corporation which  
22 conducts business operations in an Enterprise Zone or  
23 zones created under the Illinois Enterprise Zone Act,  
24 enacted by the 82nd General Assembly, or a River Edge  
25 Redevelopment Zone or zones created under the River  
26 Edge Redevelopment Zone Act and conducts substantially

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

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

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

17 (N) An amount equal to the amount of the deduction  
18 used to compute the federal income tax credit for  
19 restoration of substantial amounts held under claim of  
20 right for the taxable year pursuant to Section 1341 of  
21 the Internal Revenue Code of 1986;

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

1           thereafter, an amount equal to "x", where:

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

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

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

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

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

24                  The aggregate amount deducted under this  
25                  subparagraph in all taxable years for any one piece of  
26                  property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the  
2 taxpayer's federal income tax return under subsection  
3 (k) of Section 168 of the Internal Revenue Code. This  
4 subparagraph (O) is exempt from the provisions of  
5 Section 250;

6 (P) If the taxpayer sells, transfers, abandons, or  
7 otherwise disposes of property for which the taxpayer  
8 was required in any taxable year to make an addition  
9 modification under subparagraph (D-5), then an amount  
10 equal to that addition modification.

11 If the taxpayer continues to own property through  
12 the last day of the last tax year for which the  
13 taxpayer may claim a depreciation deduction for  
14 federal income tax purposes and for which the taxpayer  
15 was required in any taxable year to make an addition  
16 modification under subparagraph (D-5), then an amount  
17 equal to that addition modification.

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

21 This subparagraph (P) is exempt from the  
22 provisions of Section 250;

23 (Q) The amount of (i) any interest income (net of  
24 the deductions allocable thereto) taken into account  
25 for the taxable year with respect to a transaction with  
26 a taxpayer that is required to make an addition



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

13 (R) An amount equal to the interest income taken  
14 into account for the taxable year (net of the  
15 deductions allocable thereto) with respect to  
16 transactions with a foreign person who would be a  
17 member of the taxpayer's unitary business group but for  
18 the fact that the foreign person's business activity  
19 outside the United States is 80% or more of that  
20 person's total business activity, but not to exceed the  
21 addition modification required to be made for the same  
22 taxable year under Section 203(d)(2)(D-7) for interest  
23 paid, accrued, or incurred, directly or indirectly, to  
24 the same foreign person; ~~and~~

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

1 of the deductions allocable thereto) with respect to  
2 transactions with a foreign person who would be a  
3 member of the taxpayer's unitary business group but for  
4 the fact that the foreign person's business activity  
5 outside the United States is 80% or more of that  
6 person's total business activity, but not to exceed the  
7 addition modification required to be made for the same  
8 taxable year under Section 203(d)(2)(D-8) for  
9 intangible expenses and costs paid, accrued, or  
10 incurred, directly or indirectly, to the same foreign  
11 person; ~~and-~~

12 (T) For taxable years ending on or after December  
13 31, 2008 and on or before December 30, 2014, if the  
14 taxpayer purchased a flexible-fuel vehicle during the  
15 taxable year, then an amount equal to the lesser of  
16 \$1,500 or 10% of the purchase price of that vehicle.  
17 The deduction under this subparagraph (TT) must be  
18 reduced by any amount that the taxpayer deducted from  
19 his or her federal adjusted gross income with respect  
20 to the purchase of any vehicle for which the taxpayer  
21 makes a deduction under this subparagraph. For the  
22 purposes of this subparagraph, "flexible-fuel vehicle"  
23 means a vehicle that is capable of running on E85-blend  
24 fuel.

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

1           (1) In general. Subject to the provisions of paragraph  
2           (2) and subsection (b) (3), for purposes of this Section  
3           and Section 803(e), a taxpayer's gross income, adjusted  
4           gross income, or taxable income for the taxable year shall  
5           mean the amount of gross income, adjusted gross income or  
6           taxable income properly reportable for federal income tax  
7           purposes for the taxable year under the provisions of the  
8           Internal Revenue Code. Taxable income may be less than  
9           zero. However, for taxable years ending on or after  
10          December 31, 1986, net operating loss carryforwards from  
11          taxable years ending prior to December 31, 1986, may not  
12          exceed the sum of federal taxable income for the taxable  
13          year before net operating loss deduction, plus the excess  
14          of addition modifications over subtraction modifications  
15          for the taxable year. For taxable years ending prior to  
16          December 31, 1986, taxable income may never be an amount in  
17          excess of the net operating loss for the taxable year as  
18          defined in subsections (c) and (d) of Section 172 of the  
19          Internal Revenue Code, provided that when taxable income of  
20          a corporation (other than a Subchapter S corporation),  
21          trust, or estate is less than zero and addition  
22          modifications, other than those provided by subparagraph  
23          (E) of paragraph (2) of subsection (b) for corporations or  
24          subparagraph (E) of paragraph (2) of subsection (c) for  
25          trusts and estates, exceed subtraction modifications, an  
26          addition modification must be made under those

1           subparagraphs for any other taxable year to which the  
2           taxable income less than zero (net operating loss) is  
3           applied under Section 172 of the Internal Revenue Code or  
4           under subparagraph (E) of paragraph (2) of this subsection  
5           (e) applied in conjunction with Section 172 of the Internal  
6           Revenue Code.

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

10           (A) Certain life insurance companies. In the case  
11           of a life insurance company subject to the tax imposed  
12           by Section 801 of the Internal Revenue Code, life  
13           insurance company taxable income, plus the amount of  
14           distribution from pre-1984 policyholder surplus  
15           accounts as calculated under Section 815a of the  
16           Internal Revenue Code;

17           (B) Certain other insurance companies. In the case  
18           of mutual insurance companies subject to the tax  
19           imposed by Section 831 of the Internal Revenue Code,  
20           insurance company taxable income;

21           (C) Regulated investment companies. In the case of  
22           a regulated investment company subject to the tax  
23           imposed by Section 852 of the Internal Revenue Code,  
24           investment company taxable income;

25           (D) Real estate investment trusts. In the case of a  
26           real estate investment trust subject to the tax imposed

1 by Section 857 of the Internal Revenue Code, real  
2 estate investment trust taxable income;

3 (E) Consolidated corporations. In the case of a  
4 corporation which is a member of an affiliated group of  
5 corporations filing a consolidated income tax return  
6 for the taxable year for federal income tax purposes,  
7 taxable income determined as if such corporation had  
8 filed a separate return for federal income tax purposes  
9 for the taxable year and each preceding taxable year  
10 for which it was a member of an affiliated group. For  
11 purposes of this subparagraph, the taxpayer's separate  
12 taxable income shall be determined as if the election  
13 provided by Section 243(b) (2) of the Internal Revenue  
14 Code had been in effect for all such years;

15 (F) Cooperatives. In the case of a cooperative  
16 corporation or association, the taxable income of such  
17 organization determined in accordance with the  
18 provisions of Section 1381 through 1388 of the Internal  
19 Revenue Code;

20 (G) Subchapter S corporations. In the case of: (i)  
21 a Subchapter S corporation for which there is in effect  
22 an election for the taxable year under Section 1362 of  
23 the Internal Revenue Code, the taxable income of such  
24 corporation determined in accordance with Section  
25 1363(b) of the Internal Revenue Code, except that  
26 taxable income shall take into account those items

1           which are required by Section 1363(b)(1) of the  
2           Internal Revenue Code to be separately stated; and (ii)  
3           a Subchapter S corporation for which there is in effect  
4           a federal election to opt out of the provisions of the  
5           Subchapter S Revision Act of 1982 and have applied  
6           instead the prior federal Subchapter S rules as in  
7           effect on July 1, 1982, the taxable income of such  
8           corporation determined in accordance with the federal  
9           Subchapter S rules as in effect on July 1, 1982; and

10           (H) Partnerships. In the case of a partnership,  
11           taxable income determined in accordance with Section  
12           703 of the Internal Revenue Code, except that taxable  
13           income shall take into account those items which are  
14           required by Section 703(a)(1) to be separately stated  
15           but which would be taken into account by an individual  
16           in calculating his taxable income.

17           (3) Recapture of business expenses on disposition of  
18           asset or business. Notwithstanding any other law to the  
19           contrary, if in prior years income from an asset or  
20           business has been classified as business income and in a  
21           later year is demonstrated to be non-business income, then  
22           all expenses, without limitation, deducted in such later  
23           year and in the 2 immediately preceding taxable years  
24           related to that asset or business that generated the  
25           non-business income shall be added back and recaptured as  
26           business income in the year of the disposition of the asset

1 or business. Such amount shall be apportioned to Illinois  
2 using the greater of the apportionment fraction computed  
3 for the business under Section 304 of this Act for the  
4 taxable year or the average of the apportionment fractions  
5 computed for the business under Section 304 of this Act for  
6 the taxable year and for the 2 immediately preceding  
7 taxable years.

8 (f) Valuation limitation amount.

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

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

17 (B) The lesser of (i) the sum of the pre-August 1,  
18 1969 appreciation amounts (to the extent consisting of  
19 capital gain) for all property in respect of which such  
20 gain was reported for federal income tax purposes for  
21 the taxable year, or (ii) the net capital gain for the  
22 taxable year, reduced in either case by any amount of  
23 such gain included in the amount determined under  
24 subsection (a) (2) (F) or (c) (2) (H).

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

26 (A) If the fair market value of property referred

1 to in paragraph (1) was readily ascertainable on August  
2 1, 1969, the pre-August 1, 1969 appreciation amount for  
3 such property is the lesser of (i) the excess of such  
4 fair market value over the taxpayer's basis (for  
5 determining gain) for such property on that date  
6 (determined under the Internal Revenue Code as in  
7 effect on that date), or (ii) the total gain realized  
8 and reportable for federal income tax purposes in  
9 respect of the sale, exchange or other disposition of  
10 such property.

11 (B) If the fair market value of property referred  
12 to in paragraph (1) was not readily ascertainable on  
13 August 1, 1969, the pre-August 1, 1969 appreciation  
14 amount for such property is that amount which bears the  
15 same ratio to the total gain reported in respect of the  
16 property for federal income tax purposes for the  
17 taxable year, as the number of full calendar months in  
18 that part of the taxpayer's holding period for the  
19 property ending July 31, 1969 bears to the number of  
20 full calendar months in the taxpayer's entire holding  
21 period for the property.

22 (C) The Department shall prescribe such  
23 regulations as may be necessary to carry out the  
24 purposes of this paragraph.

25 (g) Double deductions. Unless specifically provided



1 otherwise, nothing in this Section shall permit the same item  
2 to be deducted more than once.

3 (h) Legislative intention. Except as expressly provided by  
4 this Section there shall be no modifications or limitations on  
5 the amounts of income, gain, loss or deduction taken into  
6 account in determining gross income, adjusted gross income or  
7 taxable income for federal income tax purposes for the taxable  
8 year, or in the amount of such items entering into the  
9 computation of base income and net income under this Act for  
10 such taxable year, whether in respect of property values as of  
11 August 1, 1969 or otherwise.

12 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;  
13 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.  
14 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

15 (35 ILCS 5/218 new)

16 Sec. 218. Credit for installing alternative-fuel  
17 equipment.

18 (a) For taxable years ending on or after December 31, 2008  
19 and on or before December 30, 2014, each taxpayer who is a  
20 motor-fuel retailer and who, during the taxable year, purchases  
21 and installs, at his or her motor-fuel-retail store in  
22 Illinois, storage and dispensing equipment for alternative  
23 fuel is entitled to a credit against the tax imposed under  
24 subsections (a) and (b) of Section 201 in an amount, subject to

1 the limitations set forth under subsection (b), equal to the  
2 lesser of (i) \$20,000 or (ii) 25% of the costs of purchasing  
3 and installing the equipment.

4 (b) In no event may the aggregate amount of credits awarded  
5 to all taxpayers under this Section exceed the following  
6 maximum aggregate amounts:

7 (1) \$3,000,000 in any taxable year beginning in  
8 calendar year 2008;

9 (2) \$2,000,000 in any taxable year beginning in  
10 calendar year 2009; and

11 (3) \$1,000,000 in any taxable year beginning on or  
12 after January 1, 2010 and ending on or before December 30,  
13 2014.

14 If, in any taxable year, the amount of credits claimed by all  
15 taxpayers exceeds maximum aggregate amount for that year, then  
16 each taxpayer's credit under this Section must be reduced so  
17 that the aggregate amount of credits awarded to all taxpayers  
18 is equal to the maximum aggregate amount for that year. The  
19 amount of the adjusted credit that is awarded to a taxpayer is  
20 the percentage of maximum aggregate amount for that year that  
21 the full amount of the credit claimed by the taxpayer bears to  
22 the full amount of the credit claimed by all taxpayers.

23 (c) For partners, shareholders of Subchapter S  
24 corporations, and owners of limited liability companies, if the  
25 liability company is treated as a partnership for purposes of  
26 federal and State income taxation, there is allowed a credit

1 under this Section to be determined in accordance with the  
2 determination of income and distributive share of income under  
3 Sections 702 and 704 and Subchapter S of the Internal Revenue  
4 Code.

5 (d) A taxpayer who has been awarded a credit under this  
6 Section may transfer the credit in accordance with rules  
7 adopted by the Department.

8 (e) The credit may not be carried back and may not reduce  
9 the taxpayer's liability to less than zero. If the amount of  
10 the credit exceeds the tax liability for the year, the excess  
11 may be carried forward and applied to the tax liability of the  
12 2 taxable years following the excess credit year. The tax  
13 credit shall be applied to the earliest year for which there is  
14 a tax liability. If there are credits for more than one year  
15 that are available to offset a liability, the earlier credit  
16 shall be applied first.

17 (f) For the purpose of this Section, "alternative fuel"  
18 means ethanol, gasohol, majority blended ethanol fuel,  
19 biodiesel blend fuel, and biodiesel.

20 (g) The Department must adopt any rule necessary for the  
21 administration of the credit under this Section, including,  
22 without limitation, procedures for reducing credits that  
23 exceed the maximum aggregate amount under subsection (b) and  
24 the transfer of the credit under subsection (d).

1       Sec. 219. Credit for purchasing E85 motor fuel.

2       (a) For taxable years ending on or after December 31, 2008  
3 and on or before December 30, 2014, each taxpayer who, during  
4 the taxable year, purchases at least 250 gallons of E85 motor  
5 fuel is entitled to a credit against the tax imposed under  
6 subsections (a) and (b) of Section 201 in the amount set forth  
7 under subsection (b).

8       (b) The amount of the credit under this Section is the  
9 lesser of \$500 or the following:

10           (1) for any taxable year that begins in calendar year  
11 2008, \$0.25 per gallon of E85 motor fuel purchased during  
12 the taxable year;

13           (2) for any taxable year that begins in calendar year  
14 2009 or 2010, \$0.20 per gallon of E85 motor fuel purchased  
15 during the taxable year; and

16           (3) for any taxable year that begins on or after  
17 January 1, 2011 and ends on or before December 30, 2014,  
18 \$0.15 per gallon of E85 motor fuel purchased during the  
19 taxable year.

20 In no event, however, may the aggregate amount of credits  
21 awarded to all taxpayers under this Section exceed \$500,000 in  
22 any calendar year. If, in any calendar year, the amount of  
23 credits claimed by all taxpayers exceeds \$500,000, then each  
24 taxpayer's credit under this Section must be reduced so that  
25 the aggregate amount of credits awarded to all taxpayers is  
26 \$500,000. The amount of the adjusted credit that is awarded to

1 a taxpayer is the percentage of \$500,000 that the full amount  
2 of the credit claimed by the taxpayer bears to the full amount  
3 of the credit claimed by all taxpayers in that calendar year.

4 (c) For partners, shareholders of Subchapter S  
5 corporations, and owners of limited liability companies, if the  
6 liability company is treated as a partnership for purposes of  
7 federal and State income taxation, there is allowed a credit  
8 under this Section to be determined in accordance with the  
9 determination of income and distributive share of income under  
10 Sections 702 and 704 and Subchapter S of the Internal Revenue  
11 Code.

12 (d) The credit under this Section may not be carried  
13 forward or back. If the amount of the credit exceeds the income  
14 tax liability for the applicable tax year, then the excess  
15 credit must be refunded to the taxpayer.

16 (e) The Department must adopt any rule necessary for the  
17 administration of the credit under this Section, including,  
18 without limitation, procedures for reducing credits that  
19 exceed the aggregate limitation under subsection (b).

20 Section 10. The Use Tax Act is amended by changing Section  
21 3-5 as follows:

22 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

23 Sec. 3-5. Exemptions. Use of the following tangible  
24 personal property is exempt from the tax imposed by this Act:

1           (1) Personal property purchased from a corporation,  
2 society, association, foundation, institution, or  
3 organization, other than a limited liability company, that is  
4 organized and operated as a not-for-profit service enterprise  
5 for the benefit of persons 65 years of age or older if the  
6 personal property was not purchased by the enterprise for the  
7 purpose of resale by the enterprise.

8           (2) Personal property purchased by a not-for-profit  
9 Illinois county fair association for use in conducting,  
10 operating, or promoting the county fair.

11           (3) Personal property purchased by a not-for-profit arts or  
12 cultural organization that establishes, by proof required by  
13 the Department by rule, that it has received an exemption under  
14 Section 501(c)(3) of the Internal Revenue Code and that is  
15 organized and operated primarily for the presentation or  
16 support of arts or cultural programming, activities, or  
17 services. These organizations include, but are not limited to,  
18 music and dramatic arts organizations such as symphony  
19 orchestras and theatrical groups, arts and cultural service  
20 organizations, local arts councils, visual arts organizations,  
21 and media arts organizations. On and after the effective date  
22 of this amendatory Act of the 92nd General Assembly, however,  
23 an entity otherwise eligible for this exemption shall not make  
24 tax-free purchases unless it has an active identification  
25 number issued by the Department.

26           (4) Personal property purchased by a governmental body, by

1 a corporation, society, association, foundation, or  
2 institution organized and operated exclusively for charitable,  
3 religious, or educational purposes, or by a not-for-profit  
4 corporation, society, association, foundation, institution, or  
5 organization that has no compensated officers or employees and  
6 that is organized and operated primarily for the recreation of  
7 persons 55 years of age or older. A limited liability company  
8 may qualify for the exemption under this paragraph only if the  
9 limited liability company is organized and operated  
10 exclusively for educational purposes. On and after July 1,  
11 1987, however, no entity otherwise eligible for this exemption  
12 shall make tax-free purchases unless it has an active exemption  
13 identification number issued by the Department.

14 (5) Until July 1, 2003, a passenger car that is a  
15 replacement vehicle to the extent that the purchase price of  
16 the car is subject to the Replacement Vehicle Tax.

17 (6) Until July 1, 2003 and beginning again on September 1,  
18 2004, graphic arts machinery and equipment, including repair  
19 and replacement parts, both new and used, and including that  
20 manufactured on special order, certified by the purchaser to be  
21 used primarily for graphic arts production, and including  
22 machinery and equipment purchased for lease. Equipment  
23 includes chemicals or chemicals acting as catalysts but only if  
24 the chemicals or chemicals acting as catalysts effect a direct  
25 and immediate change upon a graphic arts product.

26 (7) Farm chemicals.

1           (8) Legal tender, currency, medallions, or gold or silver  
2 coinage issued by the State of Illinois, the government of the  
3 United States of America, or the government of any foreign  
4 country, and bullion.

5           (9) Personal property purchased from a teacher-sponsored  
6 student organization affiliated with an elementary or  
7 secondary school located in Illinois.

8           (10) A motor vehicle of the first division, a motor vehicle  
9 of the second division that is a self-contained motor vehicle  
10 designed or permanently converted to provide living quarters  
11 for recreational, camping, or travel use, with direct walk  
12 through to the living quarters from the driver's seat, or a  
13 motor vehicle of the second division that is of the van  
14 configuration designed for the transportation of not less than  
15 7 nor more than 16 passengers, as defined in Section 1-146 of  
16 the Illinois Vehicle Code, that is used for automobile renting,  
17 as defined in the Automobile Renting Occupation and Use Tax  
18 Act.

19           (11) Farm machinery and equipment, both new and used,  
20 including that manufactured on special order, certified by the  
21 purchaser to be used primarily for production agriculture or  
22 State or federal agricultural programs, including individual  
23 replacement parts for the machinery and equipment, including  
24 machinery and equipment purchased for lease, and including  
25 implements of husbandry defined in Section 1-130 of the  
26 Illinois Vehicle Code, farm machinery and agricultural



1 chemical and fertilizer spreaders, and nurse wagons required to  
2 be registered under Section 3-809 of the Illinois Vehicle Code,  
3 but excluding other motor vehicles required to be registered  
4 under the Illinois Vehicle Code. Horticultural polyhouses or  
5 hoop houses used for propagating, growing, or overwintering  
6 plants shall be considered farm machinery and equipment under  
7 this item (11). Agricultural chemical tender tanks and dry  
8 boxes shall include units sold separately from a motor vehicle  
9 required to be licensed and units sold mounted on a motor  
10 vehicle required to be licensed if the selling price of the  
11 tender is separately stated.

12 Farm machinery and equipment shall include precision  
13 farming equipment that is installed or purchased to be  
14 installed on farm machinery and equipment including, but not  
15 limited to, tractors, harvesters, sprayers, planters, seeders,  
16 or spreaders. Precision farming equipment includes, but is not  
17 limited to, soil testing sensors, computers, monitors,  
18 software, global positioning and mapping systems, and other  
19 such equipment.

20 Farm machinery and equipment also includes computers,  
21 sensors, software, and related equipment used primarily in the  
22 computer-assisted operation of production agriculture  
23 facilities, equipment, and activities such as, but not limited  
24 to, the collection, monitoring, and correlation of animal and  
25 crop data for the purpose of formulating animal diets and  
26 agricultural chemicals. This item (11) is exempt from the

1 provisions of Section 3-90.

2 (12) Fuel and petroleum products sold to or used by an air  
3 common carrier, certified by the carrier to be used for  
4 consumption, shipment, or storage in the conduct of its  
5 business as an air common carrier, for a flight destined for or  
6 returning from a location or locations outside the United  
7 States without regard to previous or subsequent domestic  
8 stopovers.

9 (13) Proceeds of mandatory service charges separately  
10 stated on customers' bills for the purchase and consumption of  
11 food and beverages purchased at retail from a retailer, to the  
12 extent that the proceeds of the service charge are in fact  
13 turned over as tips or as a substitute for tips to the  
14 employees who participate directly in preparing, serving,  
15 hosting or cleaning up the food or beverage function with  
16 respect to which the service charge is imposed.

17 (14) Until July 1, 2003, oil field exploration, drilling,  
18 and production equipment, including (i) rigs and parts of rigs,  
19 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
20 tubular goods, including casing and drill strings, (iii) pumps  
21 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
22 individual replacement part for oil field exploration,  
23 drilling, and production equipment, and (vi) machinery and  
24 equipment purchased for lease; but excluding motor vehicles  
25 required to be registered under the Illinois Vehicle Code.

26 (15) Photoprocessing machinery and equipment, including

1 repair and replacement parts, both new and used, including that  
2 manufactured on special order, certified by the purchaser to be  
3 used primarily for photoprocessing, and including  
4 photoprocessing machinery and equipment purchased for lease.

5 (16) Until July 1, 2003, coal exploration, mining,  
6 offhighway hauling, processing, maintenance, and reclamation  
7 equipment, including replacement parts and equipment, and  
8 including equipment purchased for lease, but excluding motor  
9 vehicles required to be registered under the Illinois Vehicle  
10 Code.

11 (17) Until July 1, 2003, distillation machinery and  
12 equipment, sold as a unit or kit, assembled or installed by the  
13 retailer, certified by the user to be used only for the  
14 production of ethyl alcohol that will be used for consumption  
15 as motor fuel or as a component of motor fuel for the personal  
16 use of the user, and not subject to sale or resale.

17 (18) Manufacturing and assembling machinery and equipment  
18 used primarily in the process of manufacturing or assembling  
19 tangible personal property for wholesale or retail sale or  
20 lease, whether that sale or lease is made directly by the  
21 manufacturer or by some other person, whether the materials  
22 used in the process are owned by the manufacturer or some other  
23 person, or whether that sale or lease is made apart from or as  
24 an incident to the seller's engaging in the service occupation  
25 of producing machines, tools, dies, jigs, patterns, gauges, or  
26 other similar items of no commercial value on special order for

1 a particular purchaser.

2 (19) Personal property delivered to a purchaser or  
3 purchaser's donee inside Illinois when the purchase order for  
4 that personal property was received by a florist located  
5 outside Illinois who has a florist located inside Illinois  
6 deliver the personal property.

7 (20) Semen used for artificial insemination of livestock  
8 for direct agricultural production.

9 (21) Horses, or interests in horses, registered with and  
10 meeting the requirements of any of the Arabian Horse Club  
11 Registry of America, Appaloosa Horse Club, American Quarter  
12 Horse Association, United States Trotting Association, or  
13 Jockey Club, as appropriate, used for purposes of breeding or  
14 racing for prizes.

15 (22) Computers and communications equipment utilized for  
16 any hospital purpose and equipment used in the diagnosis,  
17 analysis, or treatment of hospital patients purchased by a  
18 lessor who leases the equipment, under a lease of one year or  
19 longer executed or in effect at the time the lessor would  
20 otherwise be subject to the tax imposed by this Act, to a  
21 hospital that has been issued an active tax exemption  
22 identification number by the Department under Section 1g of the  
23 Retailers' Occupation Tax Act. If the equipment is leased in a  
24 manner that does not qualify for this exemption or is used in  
25 any other non-exempt manner, the lessor shall be liable for the  
26 tax imposed under this Act or the Service Use Tax Act, as the

1 case may be, based on the fair market value of the property at  
2 the time the non-qualifying use occurs. No lessor shall collect  
3 or attempt to collect an amount (however designated) that  
4 purports to reimburse that lessor for the tax imposed by this  
5 Act or the Service Use Tax Act, as the case may be, if the tax  
6 has not been paid by the lessor. If a lessor improperly  
7 collects any such amount from the lessee, the lessee shall have  
8 a legal right to claim a refund of that amount from the lessor.  
9 If, however, that amount is not refunded to the lessee for any  
10 reason, the lessor is liable to pay that amount to the  
11 Department.

12 (23) Personal property purchased by a lessor who leases the  
13 property, under a lease of one year or longer executed or in  
14 effect at the time the lessor would otherwise be subject to the  
15 tax imposed by this Act, to a governmental body that has been  
16 issued an active sales tax exemption identification number by  
17 the Department under Section 1g of the Retailers' Occupation  
18 Tax Act. If the property is leased in a manner that does not  
19 qualify for this exemption or used in any other non-exempt  
20 manner, the lessor shall be liable for the tax imposed under  
21 this Act or the Service Use Tax Act, as the case may be, based  
22 on the fair market value of the property at the time the  
23 non-qualifying use occurs. No lessor shall collect or attempt  
24 to collect an amount (however designated) that purports to  
25 reimburse that lessor for the tax imposed by this Act or the  
26 Service Use Tax Act, as the case may be, if the tax has not been

1 paid by the lessor. If a lessor improperly collects any such  
2 amount from the lessee, the lessee shall have a legal right to  
3 claim a refund of that amount from the lessor. If, however,  
4 that amount is not refunded to the lessee for any reason, the  
5 lessor is liable to pay that amount to the Department.

6 (24) Beginning with taxable years ending on or after  
7 December 31, 1995 and ending with taxable years ending on or  
8 before December 31, 2004, personal property that is donated for  
9 disaster relief to be used in a State or federally declared  
10 disaster area in Illinois or bordering Illinois by a  
11 manufacturer or retailer that is registered in this State to a  
12 corporation, society, association, foundation, or institution  
13 that has been issued a sales tax exemption identification  
14 number by the Department that assists victims of the disaster  
15 who reside within the declared disaster area.

16 (25) Beginning with taxable years ending on or after  
17 December 31, 1995 and ending with taxable years ending on or  
18 before December 31, 2004, personal property that is used in the  
19 performance of infrastructure repairs in this State, including  
20 but not limited to municipal roads and streets, access roads,  
21 bridges, sidewalks, waste disposal systems, water and sewer  
22 line extensions, water distribution and purification  
23 facilities, storm water drainage and retention facilities, and  
24 sewage treatment facilities, resulting from a State or  
25 federally declared disaster in Illinois or bordering Illinois  
26 when such repairs are initiated on facilities located in the

1 declared disaster area within 6 months after the disaster.

2 (26) Beginning July 1, 1999, game or game birds purchased  
3 at a "game breeding and hunting preserve area" or an "exotic  
4 game hunting area" as those terms are used in the Wildlife Code  
5 or at a hunting enclosure approved through rules adopted by the  
6 Department of Natural Resources. This paragraph is exempt from  
7 the provisions of Section 3-90.

8 (27) A motor vehicle, as that term is defined in Section  
9 1-146 of the Illinois Vehicle Code, that is donated to a  
10 corporation, limited liability company, society, association,  
11 foundation, or institution that is determined by the Department  
12 to be organized and operated exclusively for educational  
13 purposes. For purposes of this exemption, "a corporation,  
14 limited liability company, society, association, foundation,  
15 or institution organized and operated exclusively for  
16 educational purposes" means all tax-supported public schools,  
17 private schools that offer systematic instruction in useful  
18 branches of learning by methods common to public schools and  
19 that compare favorably in their scope and intensity with the  
20 course of study presented in tax-supported schools, and  
21 vocational or technical schools or institutes organized and  
22 operated exclusively to provide a course of study of not less  
23 than 6 weeks duration and designed to prepare individuals to  
24 follow a trade or to pursue a manual, technical, mechanical,  
25 industrial, business, or commercial occupation.

26 (28) Beginning January 1, 2000, personal property,

1 including food, purchased through fundraising events for the  
2 benefit of a public or private elementary or secondary school,  
3 a group of those schools, or one or more school districts if  
4 the events are sponsored by an entity recognized by the school  
5 district that consists primarily of volunteers and includes  
6 parents and teachers of the school children. This paragraph  
7 does not apply to fundraising events (i) for the benefit of  
8 private home instruction or (ii) for which the fundraising  
9 entity purchases the personal property sold at the events from  
10 another individual or entity that sold the property for the  
11 purpose of resale by the fundraising entity and that profits  
12 from the sale to the fundraising entity. This paragraph is  
13 exempt from the provisions of Section 3-90.

14 (29) Beginning January 1, 2000 and through December 31,  
15 2001, new or used automatic vending machines that prepare and  
16 serve hot food and beverages, including coffee, soup, and other  
17 items, and replacement parts for these machines. Beginning  
18 January 1, 2002 and through June 30, 2003, machines and parts  
19 for machines used in commercial, coin-operated amusement and  
20 vending business if a use or occupation tax is paid on the  
21 gross receipts derived from the use of the commercial,  
22 coin-operated amusement and vending machines. This paragraph  
23 is exempt from the provisions of Section 3-90.

24 (30) Beginning January 1, 2001 and through June 30, 2011,  
25 food for human consumption that is to be consumed off the  
26 premises where it is sold (other than alcoholic beverages, soft



1 drinks, and food that has been prepared for immediate  
2 consumption) and prescription and nonprescription medicines,  
3 drugs, medical appliances, and insulin, urine testing  
4 materials, syringes, and needles used by diabetics, for human  
5 use, when purchased for use by a person receiving medical  
6 assistance under Article 5 of the Illinois Public Aid Code who  
7 resides in a licensed long-term care facility, as defined in  
8 the Nursing Home Care Act.

9 (31) Beginning on the effective date of this amendatory Act  
10 of the 92nd General Assembly, computers and communications  
11 equipment utilized for any hospital purpose and equipment used  
12 in the diagnosis, analysis, or treatment of hospital patients  
13 purchased by a lessor who leases the equipment, under a lease  
14 of one year or longer executed or in effect at the time the  
15 lessor would otherwise be subject to the tax imposed by this  
16 Act, to a hospital that has been issued an active tax exemption  
17 identification number by the Department under Section 1g of the  
18 Retailers' Occupation Tax Act. If the equipment is leased in a  
19 manner that does not qualify for this exemption or is used in  
20 any other nonexempt manner, the lessor shall be liable for the  
21 tax imposed under this Act or the Service Use Tax Act, as the  
22 case may be, based on the fair market value of the property at  
23 the time the nonqualifying use occurs. No lessor shall collect  
24 or attempt to collect an amount (however designated) that  
25 purports to reimburse that lessor for the tax imposed by this  
26 Act or the Service Use Tax Act, as the case may be, if the tax

1 has not been paid by the lessor. If a lessor improperly  
2 collects any such amount from the lessee, the lessee shall have  
3 a legal right to claim a refund of that amount from the lessor.  
4 If, however, that amount is not refunded to the lessee for any  
5 reason, the lessor is liable to pay that amount to the  
6 Department. This paragraph is exempt from the provisions of  
7 Section 3-90.

8 (32) Beginning on the effective date of this amendatory Act  
9 of the 92nd General Assembly, personal property purchased by a  
10 lessor who leases the property, under a lease of one year or  
11 longer executed or in effect at the time the lessor would  
12 otherwise be subject to the tax imposed by this Act, to a  
13 governmental body that has been issued an active sales tax  
14 exemption identification number by the Department under  
15 Section 1g of the Retailers' Occupation Tax Act. If the  
16 property is leased in a manner that does not qualify for this  
17 exemption or used in any other nonexempt manner, the lessor  
18 shall be liable for the tax imposed under this Act or the  
19 Service Use Tax Act, as the case may be, based on the fair  
20 market value of the property at the time the nonqualifying use  
21 occurs. No lessor shall collect or attempt to collect an amount  
22 (however designated) that purports to reimburse that lessor for  
23 the tax imposed by this Act or the Service Use Tax Act, as the  
24 case may be, if the tax has not been paid by the lessor. If a  
25 lessor improperly collects any such amount from the lessee, the  
26 lessee shall have a legal right to claim a refund of that

1 amount from the lessor. If, however, that amount is not  
2 refunded to the lessee for any reason, the lessor is liable to  
3 pay that amount to the Department. This paragraph is exempt  
4 from the provisions of Section 3-90.

5 (33) On and after July 1, 2003 and through June 30, 2004,  
6 the use in this State of motor vehicles of the second division  
7 with a gross vehicle weight in excess of 8,000 pounds and that  
8 are subject to the commercial distribution fee imposed under  
9 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
10 1, 2004 and through June 30, 2005, the use in this State of  
11 motor vehicles of the second division: (i) with a gross vehicle  
12 weight rating in excess of 8,000 pounds; (ii) that are subject  
13 to the commercial distribution fee imposed under Section  
14 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
15 primarily used for commercial purposes. Through June 30, 2005,  
16 this exemption applies to repair and replacement parts added  
17 after the initial purchase of such a motor vehicle if that  
18 motor vehicle is used in a manner that would qualify for the  
19 rolling stock exemption otherwise provided for in this Act. For  
20 purposes of this paragraph, the term "used for commercial  
21 purposes" means the transportation of persons or property in  
22 furtherance of any commercial or industrial enterprise,  
23 whether for-hire or not.

24 (34) Beginning on January 1, 2008 and continuing through  
25 December 31, 2014, any flexible-fuel vehicle. For the purposes  
26 of this paragraph, "flexible fuel vehicle" means a vehicle that

1 is capable of running on E85-blend fuel.

2 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
3 eff. 7-30-04; 93-1033, eff. 9-3-04; 94-1002, eff. 7-3-06.)

4 Section 15. The Service Use Tax Act is amended by changing  
5 Section 3-5 as follows:

6 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

7 Sec. 3-5. Exemptions. Use of the following tangible  
8 personal property is exempt from the tax imposed by this Act:

9 (1) Personal property purchased from a corporation,  
10 society, association, foundation, institution, or  
11 organization, other than a limited liability company, that is  
12 organized and operated as a not-for-profit service enterprise  
13 for the benefit of persons 65 years of age or older if the  
14 personal property was not purchased by the enterprise for the  
15 purpose of resale by the enterprise.

16 (2) Personal property purchased by a non-profit Illinois  
17 county fair association for use in conducting, operating, or  
18 promoting the county fair.

19 (3) Personal property purchased by a not-for-profit arts or  
20 cultural organization that establishes, by proof required by  
21 the Department by rule, that it has received an exemption under  
22 Section 501(c)(3) of the Internal Revenue Code and that is  
23 organized and operated primarily for the presentation or  
24 support of arts or cultural programming, activities, or

1 services. These organizations include, but are not limited to,  
2 music and dramatic arts organizations such as symphony  
3 orchestras and theatrical groups, arts and cultural service  
4 organizations, local arts councils, visual arts organizations,  
5 and media arts organizations. On and after the effective date  
6 of this amendatory Act of the 92nd General Assembly, however,  
7 an entity otherwise eligible for this exemption shall not make  
8 tax-free purchases unless it has an active identification  
9 number issued by the Department.

10 (4) Legal tender, currency, medallions, or gold or silver  
11 coinage issued by the State of Illinois, the government of the  
12 United States of America, or the government of any foreign  
13 country, and bullion.

14 (5) Until July 1, 2003 and beginning again on September 1,  
15 2004, graphic arts machinery and equipment, including repair  
16 and replacement parts, both new and used, and including that  
17 manufactured on special order or purchased for lease, certified  
18 by the purchaser to be used primarily for graphic arts  
19 production. Equipment includes chemicals or chemicals acting  
20 as catalysts but only if the chemicals or chemicals acting as  
21 catalysts effect a direct and immediate change upon a graphic  
22 arts product.

23 (6) Personal property purchased from a teacher-sponsored  
24 student organization affiliated with an elementary or  
25 secondary school located in Illinois.

26 (7) Farm machinery and equipment, both new and used,

1 including that manufactured on special order, certified by the  
2 purchaser to be used primarily for production agriculture or  
3 State or federal agricultural programs, including individual  
4 replacement parts for the machinery and equipment, including  
5 machinery and equipment purchased for lease, and including  
6 implements of husbandry defined in Section 1-130 of the  
7 Illinois Vehicle Code, farm machinery and agricultural  
8 chemical and fertilizer spreaders, and nurse wagons required to  
9 be registered under Section 3-809 of the Illinois Vehicle Code,  
10 but excluding other motor vehicles required to be registered  
11 under the Illinois Vehicle Code. Horticultural polyhouses or  
12 hoop houses used for propagating, growing, or overwintering  
13 plants shall be considered farm machinery and equipment under  
14 this item (7). Agricultural chemical tender tanks and dry boxes  
15 shall include units sold separately from a motor vehicle  
16 required to be licensed and units sold mounted on a motor  
17 vehicle required to be licensed if the selling price of the  
18 tender is separately stated.

19 Farm machinery and equipment shall include precision  
20 farming equipment that is installed or purchased to be  
21 installed on farm machinery and equipment including, but not  
22 limited to, tractors, harvesters, sprayers, planters, seeders,  
23 or spreaders. Precision farming equipment includes, but is not  
24 limited to, soil testing sensors, computers, monitors,  
25 software, global positioning and mapping systems, and other  
26 such equipment.

1 Farm machinery and equipment also includes computers,  
2 sensors, software, and related equipment used primarily in the  
3 computer-assisted operation of production agriculture  
4 facilities, equipment, and activities such as, but not limited  
5 to, the collection, monitoring, and correlation of animal and  
6 crop data for the purpose of formulating animal diets and  
7 agricultural chemicals. This item (7) is exempt from the  
8 provisions of Section 3-75.

9 (8) Fuel and petroleum products sold to or used by an air  
10 common carrier, certified by the carrier to be used for  
11 consumption, shipment, or storage in the conduct of its  
12 business as an air common carrier, for a flight destined for or  
13 returning from a location or locations outside the United  
14 States without regard to previous or subsequent domestic  
15 stopovers.

16 (9) Proceeds of mandatory service charges separately  
17 stated on customers' bills for the purchase and consumption of  
18 food and beverages acquired as an incident to the purchase of a  
19 service from a serviceman, to the extent that the proceeds of  
20 the service charge are in fact turned over as tips or as a  
21 substitute for tips to the employees who participate directly  
22 in preparing, serving, hosting or cleaning up the food or  
23 beverage function with respect to which the service charge is  
24 imposed.

25 (10) Until July 1, 2003, oil field exploration, drilling,  
26 and production equipment, including (i) rigs and parts of rigs,

1 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
2 tubular goods, including casing and drill strings, (iii) pumps  
3 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
4 individual replacement part for oil field exploration,  
5 drilling, and production equipment, and (vi) machinery and  
6 equipment purchased for lease; but excluding motor vehicles  
7 required to be registered under the Illinois Vehicle Code.

8 (11) Proceeds from the sale of photoprocessing machinery  
9 and equipment, including repair and replacement parts, both new  
10 and used, including that manufactured on special order,  
11 certified by the purchaser to be used primarily for  
12 photoprocessing, and including photoprocessing machinery and  
13 equipment purchased for lease.

14 (12) Until July 1, 2003, coal exploration, mining,  
15 offhighway hauling, processing, maintenance, and reclamation  
16 equipment, including replacement parts and equipment, and  
17 including equipment purchased for lease, but excluding motor  
18 vehicles required to be registered under the Illinois Vehicle  
19 Code.

20 (13) Semen used for artificial insemination of livestock  
21 for direct agricultural production.

22 (14) Horses, or interests in horses, registered with and  
23 meeting the requirements of any of the Arabian Horse Club  
24 Registry of America, Appaloosa Horse Club, American Quarter  
25 Horse Association, United States Trotting Association, or  
26 Jockey Club, as appropriate, used for purposes of breeding or



1 racing for prizes.

2 (15) Computers and communications equipment utilized for  
3 any hospital purpose and equipment used in the diagnosis,  
4 analysis, or treatment of hospital patients purchased by a  
5 lessor who leases the equipment, under a lease of one year or  
6 longer executed or in effect at the time the lessor would  
7 otherwise be subject to the tax imposed by this Act, to a  
8 hospital that has been issued an active tax exemption  
9 identification number by the Department under Section 1g of the  
10 Retailers' Occupation Tax Act. If the equipment is leased in a  
11 manner that does not qualify for this exemption or is used in  
12 any other non-exempt manner, the lessor shall be liable for the  
13 tax imposed under this Act or the Use Tax Act, as the case may  
14 be, based on the fair market value of the property at the time  
15 the non-qualifying use occurs. No lessor shall collect or  
16 attempt to collect an amount (however designated) that purports  
17 to reimburse that lessor for the tax imposed by this Act or the  
18 Use Tax Act, as the case may be, if the tax has not been paid by  
19 the lessor. If a lessor improperly collects any such amount  
20 from the lessee, the lessee shall have a legal right to claim a  
21 refund of that amount from the lessor. If, however, that amount  
22 is not refunded to the lessee for any reason, the lessor is  
23 liable to pay that amount to the Department.

24 (16) Personal property purchased by a lessor who leases the  
25 property, under a lease of one year or longer executed or in  
26 effect at the time the lessor would otherwise be subject to the

1 tax imposed by this Act, to a governmental body that has been  
2 issued an active tax exemption identification number by the  
3 Department under Section 1g of the Retailers' Occupation Tax  
4 Act. If the property is leased in a manner that does not  
5 qualify for this exemption or is used in any other non-exempt  
6 manner, the lessor shall be liable for the tax imposed under  
7 this Act or the Use Tax Act, as the case may be, based on the  
8 fair market value of the property at the time the  
9 non-qualifying use occurs. No lessor shall collect or attempt  
10 to collect an amount (however designated) that purports to  
11 reimburse that lessor for the tax imposed by this Act or the  
12 Use Tax Act, as the case may be, if the tax has not been paid by  
13 the lessor. If a lessor improperly collects any such amount  
14 from the lessee, the lessee shall have a legal right to claim a  
15 refund of that amount from the lessor. If, however, that amount  
16 is not refunded to the lessee for any reason, the lessor is  
17 liable to pay that amount to the Department.

18 (17) Beginning with taxable years ending on or after  
19 December 31, 1995 and ending with taxable years ending on or  
20 before December 31, 2004, personal property that is donated for  
21 disaster relief to be used in a State or federally declared  
22 disaster area in Illinois or bordering Illinois by a  
23 manufacturer or retailer that is registered in this State to a  
24 corporation, society, association, foundation, or institution  
25 that has been issued a sales tax exemption identification  
26 number by the Department that assists victims of the disaster

1 who reside within the declared disaster area.

2 (18) Beginning with taxable years ending on or after  
3 December 31, 1995 and ending with taxable years ending on or  
4 before December 31, 2004, personal property that is used in the  
5 performance of infrastructure repairs in this State, including  
6 but not limited to municipal roads and streets, access roads,  
7 bridges, sidewalks, waste disposal systems, water and sewer  
8 line extensions, water distribution and purification  
9 facilities, storm water drainage and retention facilities, and  
10 sewage treatment facilities, resulting from a State or  
11 federally declared disaster in Illinois or bordering Illinois  
12 when such repairs are initiated on facilities located in the  
13 declared disaster area within 6 months after the disaster.

14 (19) Beginning July 1, 1999, game or game birds purchased  
15 at a "game breeding and hunting preserve area" or an "exotic  
16 game hunting area" as those terms are used in the Wildlife Code  
17 or at a hunting enclosure approved through rules adopted by the  
18 Department of Natural Resources. This paragraph is exempt from  
19 the provisions of Section 3-75.

20 (20) A motor vehicle, as that term is defined in Section  
21 1-146 of the Illinois Vehicle Code, that is donated to a  
22 corporation, limited liability company, society, association,  
23 foundation, or institution that is determined by the Department  
24 to be organized and operated exclusively for educational  
25 purposes. For purposes of this exemption, "a corporation,  
26 limited liability company, society, association, foundation,

1 or institution organized and operated exclusively for  
2 educational purposes" means all tax-supported public schools,  
3 private schools that offer systematic instruction in useful  
4 branches of learning by methods common to public schools and  
5 that compare favorably in their scope and intensity with the  
6 course of study presented in tax-supported schools, and  
7 vocational or technical schools or institutes organized and  
8 operated exclusively to provide a course of study of not less  
9 than 6 weeks duration and designed to prepare individuals to  
10 follow a trade or to pursue a manual, technical, mechanical,  
11 industrial, business, or commercial occupation.

12 (21) Beginning January 1, 2000, personal property,  
13 including food, purchased through fundraising events for the  
14 benefit of a public or private elementary or secondary school,  
15 a group of those schools, or one or more school districts if  
16 the events are sponsored by an entity recognized by the school  
17 district that consists primarily of volunteers and includes  
18 parents and teachers of the school children. This paragraph  
19 does not apply to fundraising events (i) for the benefit of  
20 private home instruction or (ii) for which the fundraising  
21 entity purchases the personal property sold at the events from  
22 another individual or entity that sold the property for the  
23 purpose of resale by the fundraising entity and that profits  
24 from the sale to the fundraising entity. This paragraph is  
25 exempt from the provisions of Section 3-75.

26 (22) Beginning January 1, 2000 and through December 31,

1 2001, new or used automatic vending machines that prepare and  
2 serve hot food and beverages, including coffee, soup, and other  
3 items, and replacement parts for these machines. Beginning  
4 January 1, 2002 and through June 30, 2003, machines and parts  
5 for machines used in commercial, coin-operated amusement and  
6 vending business if a use or occupation tax is paid on the  
7 gross receipts derived from the use of the commercial,  
8 coin-operated amusement and vending machines. This paragraph  
9 is exempt from the provisions of Section 3-75.

10 (23) Beginning August 23, 2001 and through June 30, 2011,  
11 food for human consumption that is to be consumed off the  
12 premises where it is sold (other than alcoholic beverages, soft  
13 drinks, and food that has been prepared for immediate  
14 consumption) and prescription and nonprescription medicines,  
15 drugs, medical appliances, and insulin, urine testing  
16 materials, syringes, and needles used by diabetics, for human  
17 use, when purchased for use by a person receiving medical  
18 assistance under Article 5 of the Illinois Public Aid Code who  
19 resides in a licensed long-term care facility, as defined in  
20 the Nursing Home Care Act.

21 (24) Beginning on the effective date of this amendatory Act  
22 of the 92nd General Assembly, computers and communications  
23 equipment utilized for any hospital purpose and equipment used  
24 in the diagnosis, analysis, or treatment of hospital patients  
25 purchased by a lessor who leases the equipment, under a lease  
26 of one year or longer executed or in effect at the time the

1 lessor would otherwise be subject to the tax imposed by this  
2 Act, to a hospital that has been issued an active tax exemption  
3 identification number by the Department under Section 1g of the  
4 Retailers' Occupation Tax Act. If the equipment is leased in a  
5 manner that does not qualify for this exemption or is used in  
6 any other nonexempt manner, the lessor shall be liable for the  
7 tax imposed under this Act or the Use Tax Act, as the case may  
8 be, based on the fair market value of the property at the time  
9 the nonqualifying use occurs. No lessor shall collect or  
10 attempt to collect an amount (however designated) that purports  
11 to reimburse that lessor for the tax imposed by this Act or the  
12 Use Tax Act, as the case may be, if the tax has not been paid by  
13 the lessor. If a lessor improperly collects any such amount  
14 from the lessee, the lessee shall have a legal right to claim a  
15 refund of that amount from the lessor. If, however, that amount  
16 is not refunded to the lessee for any reason, the lessor is  
17 liable to pay that amount to the Department. This paragraph is  
18 exempt from the provisions of Section 3-75.

19 (25) Beginning on the effective date of this amendatory Act  
20 of the 92nd General Assembly, personal property purchased by a  
21 lessor who leases the property, under a lease of one year or  
22 longer executed or in effect at the time the lessor would  
23 otherwise be subject to the tax imposed by this Act, to a  
24 governmental body that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of the  
26 Retailers' Occupation Tax Act. If the property is leased in a

1 manner that does not qualify for this exemption or is used in  
2 any other nonexempt manner, the lessor shall be liable for the  
3 tax imposed under this Act or the Use Tax Act, as the case may  
4 be, based on the fair market value of the property at the time  
5 the nonqualifying use occurs. No lessor shall collect or  
6 attempt to collect an amount (however designated) that purports  
7 to reimburse that lessor for the tax imposed by this Act or the  
8 Use Tax Act, as the case may be, if the tax has not been paid by  
9 the lessor. If a lessor improperly collects any such amount  
10 from the lessee, the lessee shall have a legal right to claim a  
11 refund of that amount from the lessor. If, however, that amount  
12 is not refunded to the lessee for any reason, the lessor is  
13 liable to pay that amount to the Department. This paragraph is  
14 exempt from the provisions of Section 3-75.

15 (26) Beginning on January 1, 2008 and continuing through  
16 December 31, 2014, any flexible-fuel vehicle. For the purposes  
17 of this paragraph, "flexible fuel vehicle" means a vehicle that  
18 is capable of running on E85-blend fuel.

19 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
20 94-1002, eff. 7-3-06.)

21 Section 20. The Service Occupation Tax Act is amended by  
22 changing Section 3-5 as follows:

23 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

24 Sec. 3-5. Exemptions. The following tangible personal

1 property is exempt from the tax imposed by this Act:

2 (1) Personal property sold by a corporation, society,  
3 association, foundation, institution, or organization, other  
4 than a limited liability company, that is organized and  
5 operated as a not-for-profit service enterprise for the benefit  
6 of persons 65 years of age or older if the personal property  
7 was not purchased by the enterprise for the purpose of resale  
8 by the enterprise.

9 (2) Personal property purchased by a not-for-profit  
10 Illinois county fair association for use in conducting,  
11 operating, or promoting the county fair.

12 (3) Personal property purchased by any not-for-profit arts  
13 or cultural organization that establishes, by proof required by  
14 the Department by rule, that it has received an exemption under  
15 Section 501(c)(3) of the Internal Revenue Code and that is  
16 organized and operated primarily for the presentation or  
17 support of arts or cultural programming, activities, or  
18 services. These organizations include, but are not limited to,  
19 music and dramatic arts organizations such as symphony  
20 orchestras and theatrical groups, arts and cultural service  
21 organizations, local arts councils, visual arts organizations,  
22 and media arts organizations. On and after the effective date  
23 of this amendatory Act of the 92nd General Assembly, however,  
24 an entity otherwise eligible for this exemption shall not make  
25 tax-free purchases unless it has an active identification  
26 number issued by the Department.



1           (4) Legal tender, currency, medallions, or gold or silver  
2 coinage issued by the State of Illinois, the government of the  
3 United States of America, or the government of any foreign  
4 country, and bullion.

5           (5) Until July 1, 2003 and beginning again on September 1,  
6 2004, graphic arts machinery and equipment, including repair  
7 and replacement parts, both new and used, and including that  
8 manufactured on special order or purchased for lease, certified  
9 by the purchaser to be used primarily for graphic arts  
10 production. Equipment includes chemicals or chemicals acting  
11 as catalysts but only if the chemicals or chemicals acting as  
12 catalysts effect a direct and immediate change upon a graphic  
13 arts product.

14           (6) Personal property sold by a teacher-sponsored student  
15 organization affiliated with an elementary or secondary school  
16 located in Illinois.

17           (7) Farm machinery and equipment, both new and used,  
18 including that manufactured on special order, certified by the  
19 purchaser to be used primarily for production agriculture or  
20 State or federal agricultural programs, including individual  
21 replacement parts for the machinery and equipment, including  
22 machinery and equipment purchased for lease, and including  
23 implements of husbandry defined in Section 1-130 of the  
24 Illinois Vehicle Code, farm machinery and agricultural  
25 chemical and fertilizer spreaders, and nurse wagons required to  
26 be registered under Section 3-809 of the Illinois Vehicle Code,

1 but excluding other motor vehicles required to be registered  
2 under the Illinois Vehicle Code. Horticultural polyhouses or  
3 hoop houses used for propagating, growing, or overwintering  
4 plants shall be considered farm machinery and equipment under  
5 this item (7). Agricultural chemical tender tanks and dry boxes  
6 shall include units sold separately from a motor vehicle  
7 required to be licensed and units sold mounted on a motor  
8 vehicle required to be licensed if the selling price of the  
9 tender is separately stated.

10 Farm machinery and equipment shall include precision  
11 farming equipment that is installed or purchased to be  
12 installed on farm machinery and equipment including, but not  
13 limited to, tractors, harvesters, sprayers, planters, seeders,  
14 or spreaders. Precision farming equipment includes, but is not  
15 limited to, soil testing sensors, computers, monitors,  
16 software, global positioning and mapping systems, and other  
17 such equipment.

18 Farm machinery and equipment also includes computers,  
19 sensors, software, and related equipment used primarily in the  
20 computer-assisted operation of production agriculture  
21 facilities, equipment, and activities such as, but not limited  
22 to, the collection, monitoring, and correlation of animal and  
23 crop data for the purpose of formulating animal diets and  
24 agricultural chemicals. This item (7) is exempt from the  
25 provisions of Section 3-55.

26 (8) Fuel and petroleum products sold to or used by an air

1 common carrier, certified by the carrier to be used for  
2 consumption, shipment, or storage in the conduct of its  
3 business as an air common carrier, for a flight destined for or  
4 returning from a location or locations outside the United  
5 States without regard to previous or subsequent domestic  
6 stopovers.

7 (9) Proceeds of mandatory service charges separately  
8 stated on customers' bills for the purchase and consumption of  
9 food and beverages, to the extent that the proceeds of the  
10 service charge are in fact turned over as tips or as a  
11 substitute for tips to the employees who participate directly  
12 in preparing, serving, hosting or cleaning up the food or  
13 beverage function with respect to which the service charge is  
14 imposed.

15 (10) Until July 1, 2003, oil field exploration, drilling,  
16 and production equipment, including (i) rigs and parts of rigs,  
17 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
18 tubular goods, including casing and drill strings, (iii) pumps  
19 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
20 individual replacement part for oil field exploration,  
21 drilling, and production equipment, and (vi) machinery and  
22 equipment purchased for lease; but excluding motor vehicles  
23 required to be registered under the Illinois Vehicle Code.

24 (11) Photoprocessing machinery and equipment, including  
25 repair and replacement parts, both new and used, including that  
26 manufactured on special order, certified by the purchaser to be

1 used primarily for photoprocessing, and including  
2 photoprocessing machinery and equipment purchased for lease.

3 (12) Until July 1, 2003, coal exploration, mining,  
4 offhighway hauling, processing, maintenance, and reclamation  
5 equipment, including replacement parts and equipment, and  
6 including equipment purchased for lease, but excluding motor  
7 vehicles required to be registered under the Illinois Vehicle  
8 Code.

9 (13) Beginning January 1, 1992 and through June 30, 2011,  
10 food for human consumption that is to be consumed off the  
11 premises where it is sold (other than alcoholic beverages, soft  
12 drinks and food that has been prepared for immediate  
13 consumption) and prescription and non-prescription medicines,  
14 drugs, medical appliances, and insulin, urine testing  
15 materials, syringes, and needles used by diabetics, for human  
16 use, when purchased for use by a person receiving medical  
17 assistance under Article 5 of the Illinois Public Aid Code who  
18 resides in a licensed long-term care facility, as defined in  
19 the Nursing Home Care Act.

20 (14) Semen used for artificial insemination of livestock  
21 for direct agricultural production.

22 (15) Horses, or interests in horses, registered with and  
23 meeting the requirements of any of the Arabian Horse Club  
24 Registry of America, Appaloosa Horse Club, American Quarter  
25 Horse Association, United States Trotting Association, or  
26 Jockey Club, as appropriate, used for purposes of breeding or

1 racing for prizes.

2 (16) Computers and communications equipment utilized for  
3 any hospital purpose and equipment used in the diagnosis,  
4 analysis, or treatment of hospital patients sold to a lessor  
5 who leases the equipment, under a lease of one year or longer  
6 executed or in effect at the time of the purchase, to a  
7 hospital that has been issued an active tax exemption  
8 identification number by the Department under Section 1g of the  
9 Retailers' Occupation Tax Act.

10 (17) Personal property sold to a lessor who leases the  
11 property, under a lease of one year or longer executed or in  
12 effect at the time of the purchase, to a governmental body that  
13 has been issued an active tax exemption identification number  
14 by the Department under Section 1g of the Retailers' Occupation  
15 Tax Act.

16 (18) Beginning with taxable years ending on or after  
17 December 31, 1995 and ending with taxable years ending on or  
18 before December 31, 2004, personal property that is donated for  
19 disaster relief to be used in a State or federally declared  
20 disaster area in Illinois or bordering Illinois by a  
21 manufacturer or retailer that is registered in this State to a  
22 corporation, society, association, foundation, or institution  
23 that has been issued a sales tax exemption identification  
24 number by the Department that assists victims of the disaster  
25 who reside within the declared disaster area.

26 (19) Beginning with taxable years ending on or after

1 December 31, 1995 and ending with taxable years ending on or  
2 before December 31, 2004, personal property that is used in the  
3 performance of infrastructure repairs in this State, including  
4 but not limited to municipal roads and streets, access roads,  
5 bridges, sidewalks, waste disposal systems, water and sewer  
6 line extensions, water distribution and purification  
7 facilities, storm water drainage and retention facilities, and  
8 sewage treatment facilities, resulting from a State or  
9 federally declared disaster in Illinois or bordering Illinois  
10 when such repairs are initiated on facilities located in the  
11 declared disaster area within 6 months after the disaster.

12 (20) Beginning July 1, 1999, game or game birds sold at a  
13 "game breeding and hunting preserve area" or an "exotic game  
14 hunting area" as those terms are used in the Wildlife Code or  
15 at a hunting enclosure approved through rules adopted by the  
16 Department of Natural Resources. This paragraph is exempt from  
17 the provisions of Section 3-55.

18 (21) A motor vehicle, as that term is defined in Section  
19 1-146 of the Illinois Vehicle Code, that is donated to a  
20 corporation, limited liability company, society, association,  
21 foundation, or institution that is determined by the Department  
22 to be organized and operated exclusively for educational  
23 purposes. For purposes of this exemption, "a corporation,  
24 limited liability company, society, association, foundation,  
25 or institution organized and operated exclusively for  
26 educational purposes" means all tax-supported public schools,

1 private schools that offer systematic instruction in useful  
2 branches of learning by methods common to public schools and  
3 that compare favorably in their scope and intensity with the  
4 course of study presented in tax-supported schools, and  
5 vocational or technical schools or institutes organized and  
6 operated exclusively to provide a course of study of not less  
7 than 6 weeks duration and designed to prepare individuals to  
8 follow a trade or to pursue a manual, technical, mechanical,  
9 industrial, business, or commercial occupation.

10 (22) Beginning January 1, 2000, personal property,  
11 including food, purchased through fundraising events for the  
12 benefit of a public or private elementary or secondary school,  
13 a group of those schools, or one or more school districts if  
14 the events are sponsored by an entity recognized by the school  
15 district that consists primarily of volunteers and includes  
16 parents and teachers of the school children. This paragraph  
17 does not apply to fundraising events (i) for the benefit of  
18 private home instruction or (ii) for which the fundraising  
19 entity purchases the personal property sold at the events from  
20 another individual or entity that sold the property for the  
21 purpose of resale by the fundraising entity and that profits  
22 from the sale to the fundraising entity. This paragraph is  
23 exempt from the provisions of Section 3-55.

24 (23) Beginning January 1, 2000 and through December 31,  
25 2001, new or used automatic vending machines that prepare and  
26 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning  
2 January 1, 2002 and through June 30, 2003, machines and parts  
3 for machines used in commercial, coin-operated amusement and  
4 vending business if a use or occupation tax is paid on the  
5 gross receipts derived from the use of the commercial,  
6 coin-operated amusement and vending machines. This paragraph  
7 is exempt from the provisions of Section 3-55.

8 (24) Beginning on the effective date of this amendatory Act  
9 of the 92nd General Assembly, computers and communications  
10 equipment utilized for any hospital purpose and equipment used  
11 in the diagnosis, analysis, or treatment of hospital patients  
12 sold to a lessor who leases the equipment, under a lease of one  
13 year or longer executed or in effect at the time of the  
14 purchase, to a hospital that has been issued an active tax  
15 exemption identification number by the Department under  
16 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
17 is exempt from the provisions of Section 3-55.

18 (25) Beginning on the effective date of this amendatory Act  
19 of the 92nd General Assembly, personal property sold to a  
20 lessor who leases the property, under a lease of one year or  
21 longer executed or in effect at the time of the purchase, to a  
22 governmental body that has been issued an active tax exemption  
23 identification number by the Department under Section 1g of the  
24 Retailers' Occupation Tax Act. This paragraph is exempt from  
25 the provisions of Section 3-55.

26 (26) Beginning on January 1, 2002 and through June 30,



1 2011, tangible personal property purchased from an Illinois  
2 retailer by a taxpayer engaged in centralized purchasing  
3 activities in Illinois who will, upon receipt of the property  
4 in Illinois, temporarily store the property in Illinois (i) for  
5 the purpose of subsequently transporting it outside this State  
6 for use or consumption thereafter solely outside this State or  
7 (ii) for the purpose of being processed, fabricated, or  
8 manufactured into, attached to, or incorporated into other  
9 tangible personal property to be transported outside this State  
10 and thereafter used or consumed solely outside this State. The  
11 Director of Revenue shall, pursuant to rules adopted in  
12 accordance with the Illinois Administrative Procedure Act,  
13 issue a permit to any taxpayer in good standing with the  
14 Department who is eligible for the exemption under this  
15 paragraph (26). The permit issued under this paragraph (26)  
16 shall authorize the holder, to the extent and in the manner  
17 specified in the rules adopted under this Act, to purchase  
18 tangible personal property from a retailer exempt from the  
19 taxes imposed by this Act. Taxpayers shall maintain all  
20 necessary books and records to substantiate the use and  
21 consumption of all such tangible personal property outside of  
22 the State of Illinois.

23 (27) Beginning on January 1, 2008 and continuing through  
24 December 31, 2014, any flexible-fuel vehicle. For the purposes  
25 of this paragraph, "flexible fuel vehicle" means a vehicle that  
26 is capable of running on E85-blend fuel.

1 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
2 94-1002, eff. 7-3-06.)

3 Section 25. The Retailers' Occupation Tax Act is amended by  
4 changing Section 2-5 as follows:

5 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

6 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
7 sale of the following tangible personal property are exempt  
8 from the tax imposed by this Act:

9 (1) Farm chemicals.

10 (2) Farm machinery and equipment, both new and used,  
11 including that manufactured on special order, certified by the  
12 purchaser to be used primarily for production agriculture or  
13 State or federal agricultural programs, including individual  
14 replacement parts for the machinery and equipment, including  
15 machinery and equipment purchased for lease, and including  
16 implements of husbandry defined in Section 1-130 of the  
17 Illinois Vehicle Code, farm machinery and agricultural  
18 chemical and fertilizer spreaders, and nurse wagons required to  
19 be registered under Section 3-809 of the Illinois Vehicle Code,  
20 but excluding other motor vehicles required to be registered  
21 under the Illinois Vehicle Code. Horticultural polyhouses or  
22 hoop houses used for propagating, growing, or overwintering  
23 plants shall be considered farm machinery and equipment under  
24 this item (2). Agricultural chemical tender tanks and dry boxes

1 shall include units sold separately from a motor vehicle  
2 required to be licensed and units sold mounted on a motor  
3 vehicle required to be licensed, if the selling price of the  
4 tender is separately stated.

5 Farm machinery and equipment shall include precision  
6 farming equipment that is installed or purchased to be  
7 installed on farm machinery and equipment including, but not  
8 limited to, tractors, harvesters, sprayers, planters, seeders,  
9 or spreaders. Precision farming equipment includes, but is not  
10 limited to, soil testing sensors, computers, monitors,  
11 software, global positioning and mapping systems, and other  
12 such equipment.

13 Farm machinery and equipment also includes computers,  
14 sensors, software, and related equipment used primarily in the  
15 computer-assisted operation of production agriculture  
16 facilities, equipment, and activities such as, but not limited  
17 to, the collection, monitoring, and correlation of animal and  
18 crop data for the purpose of formulating animal diets and  
19 agricultural chemicals. This item (7) is exempt from the  
20 provisions of Section 2-70.

21 (3) Until July 1, 2003, distillation machinery and  
22 equipment, sold as a unit or kit, assembled or installed by the  
23 retailer, certified by the user to be used only for the  
24 production of ethyl alcohol that will be used for consumption  
25 as motor fuel or as a component of motor fuel for the personal  
26 use of the user, and not subject to sale or resale.

1           (4) Until July 1, 2003 and beginning again September 1,  
2 2004, graphic arts machinery and equipment, including repair  
3 and replacement parts, both new and used, and including that  
4 manufactured on special order or purchased for lease, certified  
5 by the purchaser to be used primarily for graphic arts  
6 production. Equipment includes chemicals or chemicals acting  
7 as catalysts but only if the chemicals or chemicals acting as  
8 catalysts effect a direct and immediate change upon a graphic  
9 arts product.

10           (5) A motor vehicle of the first division, a motor vehicle  
11 of the second division that is a self-contained motor vehicle  
12 designed or permanently converted to provide living quarters  
13 for recreational, camping, or travel use, with direct walk  
14 through access to the living quarters from the driver's seat,  
15 or a motor vehicle of the second division that is of the van  
16 configuration designed for the transportation of not less than  
17 7 nor more than 16 passengers, as defined in Section 1-146 of  
18 the Illinois Vehicle Code, that is used for automobile renting,  
19 as defined in the Automobile Renting Occupation and Use Tax  
20 Act.

21           (6) Personal property sold by a teacher-sponsored student  
22 organization affiliated with an elementary or secondary school  
23 located in Illinois.

24           (7) Until July 1, 2003, proceeds of that portion of the  
25 selling price of a passenger car the sale of which is subject  
26 to the Replacement Vehicle Tax.

1           (8) Personal property sold to an Illinois county fair  
2 association for use in conducting, operating, or promoting the  
3 county fair.

4           (9) Personal property sold to a not-for-profit arts or  
5 cultural organization that establishes, by proof required by  
6 the Department by rule, that it has received an exemption under  
7 Section 501(c)(3) of the Internal Revenue Code and that is  
8 organized and operated primarily for the presentation or  
9 support of arts or cultural programming, activities, or  
10 services. These organizations include, but are not limited to,  
11 music and dramatic arts organizations such as symphony  
12 orchestras and theatrical groups, arts and cultural service  
13 organizations, local arts councils, visual arts organizations,  
14 and media arts organizations. On and after the effective date  
15 of this amendatory Act of the 92nd General Assembly, however,  
16 an entity otherwise eligible for this exemption shall not make  
17 tax-free purchases unless it has an active identification  
18 number issued by the Department.

19           (10) Personal property sold by a corporation, society,  
20 association, foundation, institution, or organization, other  
21 than a limited liability company, that is organized and  
22 operated as a not-for-profit service enterprise for the benefit  
23 of persons 65 years of age or older if the personal property  
24 was not purchased by the enterprise for the purpose of resale  
25 by the enterprise.

26           (11) Personal property sold to a governmental body, to a

1 corporation, society, association, foundation, or institution  
2 organized and operated exclusively for charitable, religious,  
3 or educational purposes, or to a not-for-profit corporation,  
4 society, association, foundation, institution, or organization  
5 that has no compensated officers or employees and that is  
6 organized and operated primarily for the recreation of persons  
7 55 years of age or older. A limited liability company may  
8 qualify for the exemption under this paragraph only if the  
9 limited liability company is organized and operated  
10 exclusively for educational purposes. On and after July 1,  
11 1987, however, no entity otherwise eligible for this exemption  
12 shall make tax-free purchases unless it has an active  
13 identification number issued by the Department.

14 (12) Tangible personal property sold to interstate  
15 carriers for hire for use as rolling stock moving in interstate  
16 commerce or to lessors under leases of one year or longer  
17 executed or in effect at the time of purchase by interstate  
18 carriers for hire for use as rolling stock moving in interstate  
19 commerce and equipment operated by a telecommunications  
20 provider, licensed as a common carrier by the Federal  
21 Communications Commission, which is permanently installed in  
22 or affixed to aircraft moving in interstate commerce.

23 (12-5) On and after July 1, 2003 and through June 30, 2004,  
24 motor vehicles of the second division with a gross vehicle  
25 weight in excess of 8,000 pounds that are subject to the  
26 commercial distribution fee imposed under Section 3-815.1 of

1 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
2 through June 30, 2005, the use in this State of motor vehicles  
3 of the second division: (i) with a gross vehicle weight rating  
4 in excess of 8,000 pounds; (ii) that are subject to the  
5 commercial distribution fee imposed under Section 3-815.1 of  
6 the Illinois Vehicle Code; and (iii) that are primarily used  
7 for commercial purposes. Through June 30, 2005, this exemption  
8 applies to repair and replacement parts added after the initial  
9 purchase of such a motor vehicle if that motor vehicle is used  
10 in a manner that would qualify for the rolling stock exemption  
11 otherwise provided for in this Act. For purposes of this  
12 paragraph, "used for commercial purposes" means the  
13 transportation of persons or property in furtherance of any  
14 commercial or industrial enterprise whether for-hire or not.

15 (13) Proceeds from sales to owners, lessors, or shippers of  
16 tangible personal property that is utilized by interstate  
17 carriers for hire for use as rolling stock moving in interstate  
18 commerce and equipment operated by a telecommunications  
19 provider, licensed as a common carrier by the Federal  
20 Communications Commission, which is permanently installed in  
21 or affixed to aircraft moving in interstate commerce.

22 (14) Machinery and equipment that will be used by the  
23 purchaser, or a lessee of the purchaser, primarily in the  
24 process of manufacturing or assembling tangible personal  
25 property for wholesale or retail sale or lease, whether the  
26 sale or lease is made directly by the manufacturer or by some

1 other person, whether the materials used in the process are  
2 owned by the manufacturer or some other person, or whether the  
3 sale or lease is made apart from or as an incident to the  
4 seller's engaging in the service occupation of producing  
5 machines, tools, dies, jigs, patterns, gauges, or other similar  
6 items of no commercial value on special order for a particular  
7 purchaser.

8 (15) Proceeds of mandatory service charges separately  
9 stated on customers' bills for purchase and consumption of food  
10 and beverages, to the extent that the proceeds of the service  
11 charge are in fact turned over as tips or as a substitute for  
12 tips to the employees who participate directly in preparing,  
13 serving, hosting or cleaning up the food or beverage function  
14 with respect to which the service charge is imposed.

15 (16) Petroleum products sold to a purchaser if the seller  
16 is prohibited by federal law from charging tax to the  
17 purchaser.

18 (17) Tangible personal property sold to a common carrier by  
19 rail or motor that receives the physical possession of the  
20 property in Illinois and that transports the property, or  
21 shares with another common carrier in the transportation of the  
22 property, out of Illinois on a standard uniform bill of lading  
23 showing the seller of the property as the shipper or consignor  
24 of the property to a destination outside Illinois, for use  
25 outside Illinois.

26 (18) Legal tender, currency, medallions, or gold or silver



1 coinage issued by the State of Illinois, the government of the  
2 United States of America, or the government of any foreign  
3 country, and bullion.

4 (19) Until July 1 2003, oil field exploration, drilling,  
5 and production equipment, including (i) rigs and parts of rigs,  
6 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
7 tubular goods, including casing and drill strings, (iii) pumps  
8 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
9 individual replacement part for oil field exploration,  
10 drilling, and production equipment, and (vi) machinery and  
11 equipment purchased for lease; but excluding motor vehicles  
12 required to be registered under the Illinois Vehicle Code.

13 (20) Photoprocessing machinery and equipment, including  
14 repair and replacement parts, both new and used, including that  
15 manufactured on special order, certified by the purchaser to be  
16 used primarily for photoprocessing, and including  
17 photoprocessing machinery and equipment purchased for lease.

18 (21) Until July 1, 2003, coal exploration, mining,  
19 offhighway hauling, processing, maintenance, and reclamation  
20 equipment, including replacement parts and equipment, and  
21 including equipment purchased for lease, but excluding motor  
22 vehicles required to be registered under the Illinois Vehicle  
23 Code.

24 (22) Fuel and petroleum products sold to or used by an air  
25 carrier, certified by the carrier to be used for consumption,  
26 shipment, or storage in the conduct of its business as an air

1 common carrier, for a flight destined for or returning from a  
2 location or locations outside the United States without regard  
3 to previous or subsequent domestic stopovers.

4 (23) A transaction in which the purchase order is received  
5 by a florist who is located outside Illinois, but who has a  
6 florist located in Illinois deliver the property to the  
7 purchaser or the purchaser's donee in Illinois.

8 (24) Fuel consumed or used in the operation of ships,  
9 barges, or vessels that are used primarily in or for the  
10 transportation of property or the conveyance of persons for  
11 hire on rivers bordering on this State if the fuel is delivered  
12 by the seller to the purchaser's barge, ship, or vessel while  
13 it is afloat upon that bordering river.

14 (25) Except as provided in item (25-5) of this Section, a  
15 motor vehicle sold in this State to a nonresident even though  
16 the motor vehicle is delivered to the nonresident in this  
17 State, if the motor vehicle is not to be titled in this State,  
18 and if a drive-away permit is issued to the motor vehicle as  
19 provided in Section 3-603 of the Illinois Vehicle Code or if  
20 the nonresident purchaser has vehicle registration plates to  
21 transfer to the motor vehicle upon returning to his or her home  
22 state. The issuance of the drive-away permit or having the  
23 out-of-state registration plates to be transferred is prima  
24 facie evidence that the motor vehicle will not be titled in  
25 this State.

26 (25-5) The exemption under item (25) does not apply if the

1 state in which the motor vehicle will be titled does not allow  
2 a reciprocal exemption for a motor vehicle sold and delivered  
3 in that state to an Illinois resident but titled in Illinois.  
4 The tax collected under this Act on the sale of a motor vehicle  
5 in this State to a resident of another state that does not  
6 allow a reciprocal exemption shall be imposed at a rate equal  
7 to the state's rate of tax on taxable property in the state in  
8 which the purchaser is a resident, except that the tax shall  
9 not exceed the tax that would otherwise be imposed under this  
10 Act. At the time of the sale, the purchaser shall execute a  
11 statement, signed under penalty of perjury, of his or her  
12 intent to title the vehicle in the state in which the purchaser  
13 is a resident within 30 days after the sale and of the fact of  
14 the payment to the State of Illinois of tax in an amount  
15 equivalent to the state's rate of tax on taxable property in  
16 his or her state of residence and shall submit the statement to  
17 the appropriate tax collection agency in his or her state of  
18 residence. In addition, the retailer must retain a signed copy  
19 of the statement in his or her records. Nothing in this item  
20 shall be construed to require the removal of the vehicle from  
21 this state following the filing of an intent to title the  
22 vehicle in the purchaser's state of residence if the purchaser  
23 titles the vehicle in his or her state of residence within 30  
24 days after the date of sale. The tax collected under this Act  
25 in accordance with this item (25-5) shall be proportionately  
26 distributed as if the tax were collected at the 6.25% general

1 rate imposed under this Act.

2 (26) Semen used for artificial insemination of livestock  
3 for direct agricultural production.

4 (27) Horses, or interests in horses, registered with and  
5 meeting the requirements of any of the Arabian Horse Club  
6 Registry of America, Appaloosa Horse Club, American Quarter  
7 Horse Association, United States Trotting Association, or  
8 Jockey Club, as appropriate, used for purposes of breeding or  
9 racing for prizes.

10 (28) Computers and communications equipment utilized for  
11 any hospital purpose and equipment used in the diagnosis,  
12 analysis, or treatment of hospital patients sold to a lessor  
13 who leases the equipment, under a lease of one year or longer  
14 executed or in effect at the time of the purchase, to a  
15 hospital that has been issued an active tax exemption  
16 identification number by the Department under Section 1g of  
17 this Act.

18 (29) Personal property sold to a lessor who leases the  
19 property, under a lease of one year or longer executed or in  
20 effect at the time of the purchase, to a governmental body that  
21 has been issued an active tax exemption identification number  
22 by the Department under Section 1g of this Act.

23 (30) Beginning with taxable years ending on or after  
24 December 31, 1995 and ending with taxable years ending on or  
25 before December 31, 2004, personal property that is donated for  
26 disaster relief to be used in a State or federally declared

1 disaster area in Illinois or bordering Illinois by a  
2 manufacturer or retailer that is registered in this State to a  
3 corporation, society, association, foundation, or institution  
4 that has been issued a sales tax exemption identification  
5 number by the Department that assists victims of the disaster  
6 who reside within the declared disaster area.

7 (31) Beginning with taxable years ending on or after  
8 December 31, 1995 and ending with taxable years ending on or  
9 before December 31, 2004, personal property that is used in the  
10 performance of infrastructure repairs in this State, including  
11 but not limited to municipal roads and streets, access roads,  
12 bridges, sidewalks, waste disposal systems, water and sewer  
13 line extensions, water distribution and purification  
14 facilities, storm water drainage and retention facilities, and  
15 sewage treatment facilities, resulting from a State or  
16 federally declared disaster in Illinois or bordering Illinois  
17 when such repairs are initiated on facilities located in the  
18 declared disaster area within 6 months after the disaster.

19 (32) Beginning July 1, 1999, game or game birds sold at a  
20 "game breeding and hunting preserve area" or an "exotic game  
21 hunting area" as those terms are used in the Wildlife Code or  
22 at a hunting enclosure approved through rules adopted by the  
23 Department of Natural Resources. This paragraph is exempt from  
24 the provisions of Section 2-70.

25 (33) A motor vehicle, as that term is defined in Section  
26 1-146 of the Illinois Vehicle Code, that is donated to a

1 corporation, limited liability company, society, association,  
2 foundation, or institution that is determined by the Department  
3 to be organized and operated exclusively for educational  
4 purposes. For purposes of this exemption, "a corporation,  
5 limited liability company, society, association, foundation,  
6 or institution organized and operated exclusively for  
7 educational purposes" means all tax-supported public schools,  
8 private schools that offer systematic instruction in useful  
9 branches of learning by methods common to public schools and  
10 that compare favorably in their scope and intensity with the  
11 course of study presented in tax-supported schools, and  
12 vocational or technical schools or institutes organized and  
13 operated exclusively to provide a course of study of not less  
14 than 6 weeks duration and designed to prepare individuals to  
15 follow a trade or to pursue a manual, technical, mechanical,  
16 industrial, business, or commercial occupation.

17 (34) Beginning January 1, 2000, personal property,  
18 including food, purchased through fundraising events for the  
19 benefit of a public or private elementary or secondary school,  
20 a group of those schools, or one or more school districts if  
21 the events are sponsored by an entity recognized by the school  
22 district that consists primarily of volunteers and includes  
23 parents and teachers of the school children. This paragraph  
24 does not apply to fundraising events (i) for the benefit of  
25 private home instruction or (ii) for which the fundraising  
26 entity purchases the personal property sold at the events from

1 another individual or entity that sold the property for the  
2 purpose of resale by the fundraising entity and that profits  
3 from the sale to the fundraising entity. This paragraph is  
4 exempt from the provisions of Section 2-70.

5 (35) Beginning January 1, 2000 and through December 31,  
6 2001, new or used automatic vending machines that prepare and  
7 serve hot food and beverages, including coffee, soup, and other  
8 items, and replacement parts for these machines. Beginning  
9 January 1, 2002 and through June 30, 2003, machines and parts  
10 for machines used in commercial, coin-operated amusement and  
11 vending business if a use or occupation tax is paid on the  
12 gross receipts derived from the use of the commercial,  
13 coin-operated amusement and vending machines. This paragraph  
14 is exempt from the provisions of Section 2-70.

15 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
16 food for human consumption that is to be consumed off the  
17 premises where it is sold (other than alcoholic beverages, soft  
18 drinks, and food that has been prepared for immediate  
19 consumption) and prescription and nonprescription medicines,  
20 drugs, medical appliances, and insulin, urine testing  
21 materials, syringes, and needles used by diabetics, for human  
22 use, when purchased for use by a person receiving medical  
23 assistance under Article 5 of the Illinois Public Aid Code who  
24 resides in a licensed long-term care facility, as defined in  
25 the Nursing Home Care Act.

26 (36) Beginning August 2, 2001, computers and

1 communications equipment utilized for any hospital purpose and  
2 equipment used in the diagnosis, analysis, or treatment of  
3 hospital patients sold to a lessor who leases the equipment,  
4 under a lease of one year or longer executed or in effect at  
5 the time of the purchase, to a hospital that has been issued an  
6 active tax exemption identification number by the Department  
7 under Section 1g of this Act. This paragraph is exempt from the  
8 provisions of Section 2-70.

9 (37) Beginning August 2, 2001, personal property sold to a  
10 lessor who leases the property, under a lease of one year or  
11 longer executed or in effect at the time of the purchase, to a  
12 governmental body that has been issued an active tax exemption  
13 identification number by the Department under Section 1g of  
14 this Act. This paragraph is exempt from the provisions of  
15 Section 2-70.

16 (38) Beginning on January 1, 2002 and through June 30,  
17 2011, tangible personal property purchased from an Illinois  
18 retailer by a taxpayer engaged in centralized purchasing  
19 activities in Illinois who will, upon receipt of the property  
20 in Illinois, temporarily store the property in Illinois (i) for  
21 the purpose of subsequently transporting it outside this State  
22 for use or consumption thereafter solely outside this State or  
23 (ii) for the purpose of being processed, fabricated, or  
24 manufactured into, attached to, or incorporated into other  
25 tangible personal property to be transported outside this State  
26 and thereafter used or consumed solely outside this State. The



1 Director of Revenue shall, pursuant to rules adopted in  
2 accordance with the Illinois Administrative Procedure Act,  
3 issue a permit to any taxpayer in good standing with the  
4 Department who is eligible for the exemption under this  
5 paragraph (38). The permit issued under this paragraph (38)  
6 shall authorize the holder, to the extent and in the manner  
7 specified in the rules adopted under this Act, to purchase  
8 tangible personal property from a retailer exempt from the  
9 taxes imposed by this Act. Taxpayers shall maintain all  
10 necessary books and records to substantiate the use and  
11 consumption of all such tangible personal property outside of  
12 the State of Illinois.

13 (39) Beginning on January 1, 2008 and continuing through  
14 December 31, 2014, any flexible-fuel vehicle. For the purposes  
15 of this paragraph, "flexible fuel vehicle" means a vehicle that  
16 is capable of running on E85-blend fuel.

17 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
18 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
19 94-1002, eff. 7-3-06.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.