



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4113

by Rep. Mark H. Beaubien, Jr. - David R. Leitch - Suzanne Bassi - Dennis M. Reboletti - Jil Tracy

SYNOPSIS AS INTRODUCED:

New Act	
805 ILCS 5/15.90	from Ch. 32, par. 15.90
805 ILCS 5/16.05	from Ch. 32, par. 16.05
35 ILCS 5/203	from Ch. 120, par. 2-203
35 ILCS 5/205	from Ch. 120, par. 2-205
35 ILCS 5/207	from Ch. 120, par. 2-207
35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/502	from Ch. 120, par. 5-502
35 ILCS 5/711	from Ch. 120, par. 7-711
35 ILCS 5/712	from Ch. 120, par. 7-712
35 ILCS 5/713	from Ch. 120, par. 7-713
35 ILCS 5/804	from Ch. 120, par. 8-804
35 ILCS 5/911	from Ch. 120, par. 9-911
35 ILCS 5/1501	from Ch. 120, par. 15-1501
35 ILCS 5/709.5 rep.	
35 ILCS 120/2-5	from Ch. 120, par. 441-5

Amends various Acts, if and only if Senate Bill 1544 of the 95th General Assembly becomes law. Reinstates the provisions of those Act as they were prior to that Senate Bill 1544. Effective immediately.

LRB095 12484 BDD 37665 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

4 ARTICLE 5. REPEAL OF THE FRANCHISE TAX AND LICENSE FEE AMNESTY
5 ACT OF 2007

6 Section 5-1. If and only if Senate Bill 1544 of the 95th
7 General Assembly becomes law, then the Franchise Tax and
8 License Fee Amnesty Act of 2007 is repealed.

9 Section 5-90. If and only if Senate Bill 1544 of the 95th
10 General Assembly becomes law, then the Business Corporation Act
11 of 1983 is amended by changing Sections 15.90 and 16.05 as
12 follows:

13 (805 ILCS 5/15.90) (from Ch. 32, par. 15.90)

14 Sec. 15.90. Statute of limitations.

15 (a) Except as otherwise provided in this Section and
16 notwithstanding anything to the contrary contained in any other
17 Section of this Act, no domestic corporation or foreign
18 corporation shall be obligated to pay any annual franchise tax,
19 fee, or penalty or interest thereon imposed under this Act, nor
20 shall any administrative or judicial sanction (including
21 dissolution) be imposed or enforced nor access to the courts of

1 this State be denied based upon nonpayment thereof more than 7
2 years after the date of filing the annual report with respect
3 to the period during which the obligation for the tax, fee,
4 penalty or interest arose, unless (1) within that 7 year period
5 the Secretary of State sends a written notice to the
6 corporation to the effect that (A) administrative or judicial
7 action to dissolve the corporation or revoke its certificate of
8 authority for nonpayment of a tax, fee, penalty or interest has
9 been commenced; or (B) the corporation has submitted a report
10 but has failed to pay a tax, fee, penalty or interest required
11 to be paid therewith; or (C) a report with respect to an event
12 or action giving rise to an obligation to pay a tax, fee,
13 penalty or interest is required but has not been filed, or has
14 been filed and is in error or incomplete; or (2) the annual
15 report by the corporation was filed with fraudulent intent to
16 evade taxes payable under this Act. A corporation nonetheless
17 shall be required to pay all taxes that would have been payable
18 during the most recent 7 year period due to a previously
19 unreported increase in paid-in capital that occurred prior to
20 that 7 year period and interest and penalties thereon for that
21 period, ~~except that with respect to any corporation that~~
22 ~~participates in the Franchise Tax and License Fee Amnesty Act~~
23 ~~of 2007, the corporation shall be only required to pay all~~
24 ~~taxes that would have been payable during the most recent 4~~
25 ~~year period due to a previously unreported increase in paid-in~~
26 ~~capital that occurred prior to that 7 year period.~~

1 (b) If within 2 years following a change in control of a
2 corporation the corporation voluntarily pays in good faith all
3 known obligations of the corporation imposed by this Article 15
4 with respect to reports that were required to have been filed
5 since the beginning of the 7 year period ending on the
6 effective date of the change in control, no action shall be
7 taken to enforce or collect obligations of that corporation
8 imposed by this Article 15 with respect to reports that were
9 required to have been filed prior to that 7 year period
10 regardless of whether the limitation period set forth in
11 subsection (a) is otherwise applicable. For purposes of this
12 subsection (b), a change in control means a transaction, or a
13 series of transactions consummated within a period of 180
14 consecutive days, as a result of which a person which owned
15 less than 10% of the shares having the power to elect directors
16 of the corporation acquires shares such that the person becomes
17 the holder of 80% or more of the shares having such power. For
18 purposes of this subsection (b) a person means any natural
19 person, corporation, partnership, trust or other entity
20 together with all other persons controlled by, controlling or
21 under common control with such person.

22 (c) Except as otherwise provided in this Section and
23 notwithstanding anything to the contrary contained in any other
24 Section of this Act, no foreign corporation that has not
25 previously obtained a certificate of authority under this Act
26 shall, upon voluntary application for a certificate of

1 authority filed with the Secretary of State prior to January 1,
2 2001, be obligated to pay any tax, fee, penalty, or interest
3 imposed under this Act, nor shall any administrative or
4 judicial sanction be imposed or enforced based upon nonpayment
5 thereof with respect to a period during which the obligation
6 arose that is prior to January 1, 1993 unless (1) prior to
7 receipt of the application for a certificate of authority the
8 Secretary of State had sent written notice to the corporation
9 regarding its failure to obtain a certificate of authority, (2)
10 the corporation had submitted an application for a certificate
11 of authority previously but had failed to pay any tax, fee,
12 penalty or interest to be paid therewith, or (3) the
13 application for a certificate of authority was submitted by the
14 corporation with fraudulent intent to evade taxes payable under
15 this Act. A corporation nonetheless shall be required to pay
16 all taxes and fees due under this Act that would have been
17 payable since January 1, 1993 as a result of commencing the
18 transaction of its business in this State and interest thereon
19 for that period.

20 (Source: P.A. 90-421, eff. 1-1-98; 09500SB1544enr.)

21 (805 ILCS 5/16.05) (from Ch. 32, par. 16.05)

22 Sec. 16.05. Penalties and interest imposed upon
23 corporations.

24 (a) Each corporation, domestic or foreign, that fails or
25 refuses to file any annual report or report of cumulative

1 changes in paid-in capital and pay any franchise tax due
2 pursuant to the report prior to the first day of its
3 anniversary month or, in the case of a corporation which has
4 established an extended filing month, the extended filing month
5 of the corporation shall pay a penalty of 10% of the amount of
6 any delinquent franchise tax due for the report. ~~No penalty~~
7 ~~shall be imposed with respect to any amount of delinquent~~
8 ~~franchise tax paid pursuant to the Franchise Tax and License~~
9 ~~Fee Amnesty Act of 2007.~~

10 (b) Each corporation, domestic or foreign, that fails or
11 refuses to file a report of issuance of shares or increase in
12 paid-in capital within the time prescribed by this Act is
13 subject to a penalty on any obligation occurring prior to
14 January 1, 1991, and interest on those obligations on or after
15 January 1, 1991, for each calendar month or part of month that
16 it is delinquent in the amount of 1% of the amount of license
17 fees and franchise taxes provided by this Act to be paid on
18 account of the issuance of shares or increase in paid-in
19 capital. ~~No penalty shall be imposed, or interest charged, with~~
20 ~~respect to any amount of delinquent license fees and franchise~~
21 ~~taxes paid pursuant to the Franchise Tax and License Fee~~
22 ~~Amnesty Act of 2007.~~

23 (c) Each corporation, domestic or foreign, that fails or
24 refuses to file a report of cumulative changes in paid-in
25 capital or report following merger within the time prescribed
26 by this Act is subject to interest on or after January 1, 1992,

1 for each calendar month or part of month that it is delinquent,
2 in the amount of 1% of the amount of franchise taxes provided
3 by this Act to be paid on account of the issuance of shares or
4 increase in paid-in capital disclosed on the report of
5 cumulative changes in paid-in capital or report following
6 merger, or \$1, whichever is greater. ~~No interest shall be~~
7 ~~charged with respect to any amount of delinquent franchise tax~~
8 ~~paid pursuant to the Franchise Tax and License Fee Amnesty Act~~
9 ~~of 2007.~~

10 (d) If the annual franchise tax, or the supplemental annual
11 franchise tax for any 12-month period commencing July 1, 1968,
12 or July 1 of any subsequent year through June 30, 1983,
13 assessed in accordance with this Act, is not paid by July 31,
14 it is delinquent, and there is added a penalty prior to January
15 1, 1991, and interest on and after January 1, 1991, of 1% for
16 each month or part of month that it is delinquent commencing
17 with the month of August, or \$1, whichever is greater. ~~No~~
18 ~~penalty shall be imposed, or interest charged, with respect to~~
19 ~~any amount of delinquent franchise taxes paid pursuant to the~~
20 ~~Franchise Tax and License Fee Amnesty Act of 2007.~~

21 (e) If the supplemental annual franchise tax assessed in
22 accordance with the provisions of this Act for the 12-month
23 period commencing July 1, 1967, is not paid by September 30,
24 1967, it is delinquent, and there is added a penalty prior to
25 January 1, 1991, and interest on and after January 1, 1991, of
26 1% for each month or part of month that it is delinquent

1 commencing with the month of October, 1967. ~~No penalty shall be~~
2 ~~imposed, or interest charged, with respect to any amount of~~
3 ~~delinquent franchise taxes paid pursuant to the Franchise Tax~~
4 ~~and License Fee Amnesty Act of 2007.~~

5 (f) If any annual franchise tax for any period beginning on
6 or after July 1, 1983, is not paid by the time period herein
7 prescribed, it is delinquent and there is added a penalty prior
8 to January 1, 1991, and interest on and after January 1, 1991,
9 of 1% for each month or part of a month that it is delinquent
10 commencing with the anniversary month or in the case of a
11 corporation that has established an extended filing month, the
12 extended filing month, or \$1, whichever is greater. ~~No penalty~~
13 ~~shall be imposed, or interest charged, with respect to any~~
14 ~~amount of delinquent franchise taxes paid pursuant to the~~
15 ~~Franchise Tax and License Fee Amnesty Act of 2007.~~

16 (g) Any corporation, domestic or foreign, failing to pay
17 the prescribed fee for assumed corporate name renewal when due
18 and payable shall be given notice of nonpayment by the
19 Secretary of State by regular mail; and if the fee together
20 with a penalty fee of \$5 is not paid within 90 days after the
21 notice is mailed, the right to use the assumed name shall
22 cease.

23 (h) Any corporation which (i) puts forth any sign or
24 advertisement, assuming any name other than that by which it is
25 incorporated or otherwise authorized by law to act or (ii)
26 violates Section 3.25, shall be guilty of a Class C misdemeanor

1 and shall be deemed guilty of an additional offense for each
2 day it shall continue to so offend.

3 (i) Each corporation, domestic or foreign, that fails or
4 refuses (1) to file in the office of the recorder within the
5 time prescribed by this Act any document required by this Act
6 to be so filed, or (2) to answer truthfully and fully within
7 the time prescribed by this Act interrogatories propounded by
8 the Secretary of State in accordance with this Act, or (3) to
9 perform any other act required by this Act to be performed by
10 the corporation, is guilty of a Class C misdemeanor.

11 (j) Each corporation that fails or refuses to file articles
12 of revocation of dissolution within the time prescribed by this
13 Act is subject to a penalty for each calendar month or part of
14 the month that it is delinquent in the amount of \$50.

15 (Source: P.A. 91-464, eff. 1-1-00; 91-906, eff. 1-1-01;
16 09500SB1544enr.)

17 ARTICLE 10. AMENDATORY PROVISIONS

18 Section 10-5. If and only if Senate Bill 1544 of the 95th
19 General Assembly becomes law, then the Illinois Income Tax Act
20 is amended by changing Sections 203, 205, 207, 304, 502, 711,
21 712, 713, 804, 911, and 1501 as follows:

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

23 Sec. 203. Base income defined.

1 (a) Individuals.

2 (1) In general. In the case of an individual, base
3 income means an amount equal to the taxpayer's adjusted
4 gross income for the taxable year as modified by paragraph
5 (2).

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

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

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

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

1 of Public Act 87-17. In the case of multi-unit or
2 multi-use structures and farm dwellings, the taxes on
3 the taxpayer's principal residence shall be that
4 portion of the total taxes for the entire property
5 which is attributable to such principal residence;

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

10 (D-5) An amount, to the extent not included in
11 adjusted gross income, equal to the amount of money
12 withdrawn by the taxpayer in the taxable year from a
13 medical care savings account and the interest earned on
14 the account in the taxable year of a withdrawal
15 pursuant to subsection (b) of Section 20 of the Medical
16 Care Savings Account Act or subsection (b) of Section
17 20 of the Medical Care Savings Account Act of 2000;

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

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

1 Internal Revenue Code;

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

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

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

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

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

21 This paragraph shall not apply to the following:

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

1 income with respect to such interest; or

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

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

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

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

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

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

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

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

1 ~~the same unitary business group but for the fact that~~
2 ~~the person is prohibited under Section 1501(a)(27)~~
3 ~~from being included in the unitary business group~~
4 ~~because he or she is ordinarily required to apportion~~
5 ~~business income under different subsections of Section~~
6 ~~304.~~ The addition modification required by this
7 subparagraph shall be reduced to the extent that
8 dividends were included in base income of the unitary
9 group for the same taxable year and received by the
10 taxpayer or by a member of the taxpayer's unitary
11 business group (including amounts included in gross
12 income under Sections 951 through 964 of the Internal
13 Revenue Code and amounts included in gross income under
14 Section 78 of the Internal Revenue Code) with respect
15 to the stock of the same person to whom the intangible
16 expenses and costs were directly or indirectly paid,
17 incurred, or accrued. The preceding sentence does not
18 apply to the extent that the same dividends caused a
19 reduction to the addition modification required under
20 Section 203(a)(2)(D-17) of this Act. As used in this
21 subparagraph, the term "intangible expenses and costs"
22 includes (1) expenses, losses, and costs for, or
23 related to, the direct or indirect acquisition, use,
24 maintenance or management, ownership, sale, exchange,
25 or any other disposition of intangible property; (2)
26 losses incurred, directly or indirectly, from

1 factoring transactions or discounting transactions;
2 (3) royalty, patent, technical, and copyright fees;
3 (4) licensing fees; and (5) other similar expenses and
4 costs. For purposes of this subparagraph, "intangible
5 property" includes patents, patent applications, trade
6 names, trademarks, service marks, copyrights, mask
7 works, trade secrets, and similar types of intangible
8 assets.

9 This paragraph shall not apply to the following:

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

17 (ii) any item of intangible expense or cost
18 paid, accrued, or incurred, directly or
19 indirectly, if the taxpayer can establish, based
20 on a preponderance of the evidence, both of the
21 following:

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

26 (b) the transaction giving rise to the

1 intangible expense or cost between the
2 taxpayer and the foreign person did not have as
3 a principal purpose the avoidance of Illinois
4 income tax, and is paid pursuant to a contract
5 or agreement that reflects arm's-length terms;
6 or

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

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

25 ~~(D-19) For taxable years ending on or after~~
26 ~~December 31, 2008, an amount equal to the amount of~~

1 ~~insurance premium expenses and costs otherwise allowed~~
2 ~~as a deduction in computing base income, and that were~~
3 ~~paid, accrued, or incurred, directly or indirectly, to~~
4 ~~a person who would be a member of the same unitary~~
5 ~~business group but for the fact that the person is~~
6 ~~prohibited under Section 1501(a)(27) from being~~
7 ~~included in the unitary business group because he or~~
8 ~~she is ordinarily required to apportion business~~
9 ~~income under different subsections of Section 304. The~~
10 ~~addition modification required by this subparagraph~~
11 ~~shall be reduced to the extent that dividends were~~
12 ~~included in base income of the unitary group for the~~
13 ~~same taxable year and received by the taxpayer or by a~~
14 ~~member of the taxpayer's unitary business group~~
15 ~~(including amounts included in gross income under~~
16 ~~Sections 951 through 964 of the Internal Revenue Code~~
17 ~~and amounts included in gross income under Section 78~~
18 ~~of the Internal Revenue Code) with respect to the stock~~
19 ~~of the same person to whom the intangible expenses and~~
20 ~~costs were directly or indirectly paid, incurred, or~~
21 ~~accrued. The preceding sentence does not apply to the~~
22 ~~extent that the same dividends caused a reduction to~~
23 ~~the addition modification required under Section~~
24 ~~203(a)(2)(D-17) of this Act.~~

25 (D-20) For taxable years beginning on or after
26 January 1, 2002, in the case of a distribution from a

1 qualified tuition program under Section 529 of the
2 Internal Revenue Code, other than (i) a distribution
3 from a College Savings Pool created under Section 16.5
4 of the State Treasurer Act or (ii) a distribution from
5 the Illinois Prepaid Tuition Trust Fund, an amount
6 equal to the amount excluded from gross income under
7 Section 529(c)(3)(B);

8 and by deducting from the total so obtained the sum of the
9 following amounts:

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

1 prisoner of war or missing in action) paid to a
2 resident by reason of being a member of any component
3 of the Armed Forces of the United States and in respect
4 of any compensation paid or accrued to a resident who
5 as a governmental employee was a prisoner of war or
6 missing in action, and in respect of any compensation
7 paid to a resident in 2001 or thereafter by reason of
8 being a member of the Illinois National Guard. The
9 provisions of this amendatory Act of the 92nd General
10 Assembly are exempt from the provisions of Section 250;

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

22 (G) The valuation limitation amount;

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

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

1 total pursuant to the provisions of Section 111 of the
2 Internal Revenue Code as a recovery of items previously
3 deducted from adjusted gross income in the computation
4 of taxable income;

5 (J) 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 (J) is exempt from the
14 provisions of Section 250;

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

24 (L) For taxable years ending after December 31,
25 1983, an amount equal to all social security benefits
26 and railroad retirement benefits included in such

1 total pursuant to Sections 72(r) and 86 of the Internal
2 Revenue Code;

3 (M) With the exception of any amounts subtracted
4 under subparagraph (N), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2), and 265(2) of the Internal Revenue Code of
7 1954, as now or hereafter amended, and all amounts of
8 expenses allocable to interest and disallowed as
9 deductions by Section 265(1) of the Internal Revenue
10 Code of 1954, as now or hereafter amended; and (ii) for
11 taxable years ending on or after August 13, 1999,
12 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
13 the Internal Revenue Code; the provisions of this
14 subparagraph are exempt from the provisions of Section
15 250;

16 (N) An amount equal to all amounts included in such
17 total which are exempt from taxation by this State
18 either by reason of its statutes or Constitution or by
19 reason of the Constitution, treaties or statutes of the
20 United States; provided that, in the case of any
21 statute of this State ~~or, for taxable years ending on~~
22 ~~or after December 31, 2008, of the United States, any~~
23 ~~treaty of the United States, the Illinois~~
24 ~~Constitution, or the United States Constitution~~ that
25 exempts income derived from bonds or other obligations
26 from the tax imposed under this Act, the amount

1 exempted shall be the ~~income~~ interest net of bond
2 premium amortization, ~~and, for taxable years ending on~~
3 ~~or after December 31, 2008, interest expense incurred~~
4 ~~on indebtedness to carry the bond or other obligation,~~
5 ~~expenses incurred in producing the income to be~~
6 ~~deducted, and all other related expenses. The amount of~~
7 ~~expenses to be taken into account under this provision~~
8 ~~may not exceed the amount of income that is exempted;~~

9 (O) An amount equal to any contribution made to a
10 job training project established pursuant to the Tax
11 Increment Allocation Redevelopment Act;

12 (P) An amount equal to the amount of the deduction
13 used to compute the federal income tax credit for
14 restoration of substantial amounts held under claim of
15 right for the taxable year pursuant to Section 1341 of
16 the Internal Revenue Code of 1986;

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

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

24 (S) An amount, to the extent included in adjusted
25 gross income, equal to the amount of a contribution
26 made in the taxable year on behalf of the taxpayer to a

1 medical care savings account established under the
2 Medical Care Savings Account Act or the Medical Care
3 Savings Account Act of 2000 to the extent the
4 contribution is accepted by the account administrator
5 as provided in that Act;

6 (T) An amount, to the extent included in adjusted
7 gross income, equal to the amount of interest earned in
8 the taxable year on a medical care savings account
9 established under the Medical Care Savings Account Act
10 or the Medical Care Savings Account Act of 2000 on
11 behalf of the taxpayer, other than interest added
12 pursuant to item (D-5) of this paragraph (2);

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

19 (V) Beginning with tax years ending on or after
20 December 31, 1995 and ending with tax years ending on
21 or before December 31, 2004, an amount equal to the
22 amount paid by a taxpayer who is a self-employed
23 taxpayer, a partner of a partnership, or a shareholder
24 in a Subchapter S corporation for health insurance or
25 long-term care insurance for that taxpayer or that
26 taxpayer's spouse or dependents, to the extent that the

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

20 (W) For taxable years beginning on or after January
21 1, 1998, all amounts included in the taxpayer's federal
22 gross income in the taxable year from amounts converted
23 from a regular IRA to a Roth IRA. This paragraph is
24 exempt from the provisions of Section 250;

25 (X) For taxable year 1999 and thereafter, an amount
26 equal to the amount of any (i) distributions, to the

1 extent includible in gross income for federal income
2 tax purposes, made to the taxpayer because of his or
3 her status as a victim of persecution for racial or
4 religious reasons by Nazi Germany or any other Axis
5 regime or as an heir of the victim and (ii) items of
6 income, to the extent includible in gross income for
7 federal income tax purposes, attributable to, derived
8 from or in any way related to assets stolen from,
9 hidden from, or otherwise lost to a victim of
10 persecution for racial or religious reasons by Nazi
11 Germany or any other Axis regime immediately prior to,
12 during, and immediately after World War II, including,
13 but not limited to, interest on the proceeds receivable
14 as insurance under policies issued to a victim of
15 persecution for racial or religious reasons by Nazi
16 Germany or any other Axis regime by European insurance
17 companies immediately prior to and during World War II;
18 provided, however, this subtraction from federal
19 adjusted gross income does not apply to assets acquired
20 with such assets or with the proceeds from the sale of
21 such assets; provided, further, this paragraph shall
22 only apply to a taxpayer who was the first recipient of
23 such assets after their recovery and who is a victim of
24 persecution for racial or religious reasons by Nazi
25 Germany or any other Axis regime or as an heir of the
26 victim. The amount of and the eligibility for any

1 public assistance, benefit, or similar entitlement is
2 not affected by the inclusion of items (i) and (ii) of
3 this paragraph in gross income for federal income tax
4 purposes. This paragraph is exempt from the provisions
5 of Section 250;

6 (Y) For taxable years beginning on or after January
7 1, 2002 and ending on or before December 31, 2004,
8 moneys contributed in the taxable year to a College
9 Savings Pool account under Section 16.5 of the State
10 Treasurer Act, except that amounts excluded from gross
11 income under Section 529(c)(3)(C)(i) of the Internal
12 Revenue Code shall not be considered moneys
13 contributed under this subparagraph (Y). For taxable
14 years beginning on or after January 1, 2005, a maximum
15 of \$10,000 contributed in the taxable year to (i) a
16 College Savings Pool account under Section 16.5 of the
17 State Treasurer Act or (ii) the Illinois Prepaid
18 Tuition Trust Fund, except that amounts excluded from
19 gross income under Section 529(c)(3)(C)(i) of the
20 Internal Revenue Code shall not be considered moneys
21 contributed under this subparagraph (Y). This
22 subparagraph (Y) is exempt from the provisions of
23 Section 250;

24 (Z) For taxable years 2001 and thereafter, for the
25 taxable year in which the bonus depreciation deduction
26 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal
2 Revenue Code and for each applicable taxable year
3 thereafter, an amount equal to "x", where:

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

11 (2) for taxable years ending on or before
12 December 31, 2005, "x" equals "y" multiplied by 30
13 and then divided by 70 (or "y" multiplied by
14 0.429); and

15 (3) for taxable years ending after December
16 31, 2005:

17 (i) for property on which a bonus
18 depreciation deduction of 30% of the adjusted
19 basis was taken, "x" equals "y" multiplied by
20 30 and then divided by 70 (or "y" multiplied by
21 0.429); and

22 (ii) for property on which a bonus
23 depreciation deduction of 50% of the adjusted
24 basis was taken, "x" equals "y" multiplied by
25 1.0.

26 The aggregate amount deducted under this

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

8 (AA) If the taxpayer sells, transfers, abandons,
9 or otherwise disposes of property for which the
10 taxpayer was required in any taxable year to make an
11 addition modification under subparagraph (D-15), then
12 an amount equal to that addition modification.

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 required in any taxable year to make an addition
18 modification under subparagraph (D-15), then an amount
19 equal to that addition modification.

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

23 This subparagraph (AA) is exempt from the
24 provisions of Section 250;

25 (BB) Any amount included in adjusted gross income,
26 other than salary, received by a driver in a

1 ridesharing arrangement using a motor vehicle;

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

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

1 ~~who would be a member of the same unitary business~~
2 ~~group but for the fact that the person is prohibited~~
3 ~~under Section 1501(a) (27) from being included in the~~
4 ~~unitary business group because he or she is ordinarily~~
5 ~~required to apportion business income under different~~
6 ~~subsections of Section 304, but not to exceed the~~
7 addition modification required to be made for the same
8 taxable year under Section 203(a) (2) (D-17) for
9 interest paid, accrued, or incurred, directly or
10 indirectly, to the same foreign person; and

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

1 taxable year under Section 203(a)(2)(D-18) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person; ~~and.~~

5 ~~(FF) An amount equal to the income from insurance~~
6 ~~premiums taken into account for the taxable year (net~~
7 ~~of the deductions allocable thereto) with respect to~~
8 ~~transactions with a person who would be a member of the~~
9 ~~same unitary business group but for the fact that the~~
10 ~~person is prohibited under Section 1501(a)(27) from~~
11 ~~being included in the unitary business group because he~~
12 ~~or she is ordinarily required to apportion business~~
13 ~~income under different subsections of Section 304, but~~
14 ~~not to exceed the addition modification required to be~~
15 ~~made for the same taxable year under Section~~
16 ~~203(a)(2)(D-18) for intangible expenses and costs~~
17 ~~paid, accrued, or incurred, directly or indirectly, to~~
18 ~~the same person.~~

19 (b) Corporations.

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

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

1 (A) An amount equal to all amounts paid or accrued
2 to the taxpayer as interest and all distributions
3 received from regulated investment companies during
4 the taxable year to the extent excluded from gross
5 income in the computation of taxable income;

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

9 (C) In the case of a regulated investment company,
10 an amount equal to the excess of (i) the net long-term
11 capital gain for the taxable year, over (ii) the amount
12 of the capital gain dividends designated as such in
13 accordance with Section 852(b)(3)(C) of the Internal
14 Revenue Code and any amount designated under Section
15 852(b)(3)(D) of the Internal Revenue Code,
16 attributable to the taxable year (this amendatory Act
17 of 1995 (Public Act 89-89) is declarative of existing
18 law and is not a new enactment);

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

23 (E) For taxable years in which a net operating loss
24 carryback or carryforward from a taxable year ending
25 prior to December 31, 1986 is an element of taxable
26 income under paragraph (1) of subsection (e) or

1 subparagraph (E) of paragraph (2) of subsection (e),
2 the amount by which addition modifications other than
3 those provided by this subparagraph (E) exceeded
4 subtraction modifications in such earlier taxable
5 year, with the following limitations applied in the
6 order that they are listed:

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

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

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

1 (E-5) For taxable years ending after December 31,
2 1997, an amount equal to any eligible remediation costs
3 that the corporation deducted in computing adjusted
4 gross income and for which the corporation claims a
5 credit under subsection (l) of Section 201;

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

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

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

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with

1 respect to any one piece of property;

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

1 Internal Revenue Code) with respect to the stock of the
2 same person to whom the interest was paid, accrued, or
3 incurred.

4 This paragraph shall not apply to the following:

5 (i) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to 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 interest; or

11 (ii) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a foreign
13 person if the taxpayer can establish, based on a
14 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 interest to a person that is not a related
19 member, and

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

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

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

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

24 (E-13) ~~An~~ For taxable years ending on or after
25 December 31, 2004, an amount equal to the amount of
26 intangible expenses and costs otherwise allowed as a

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

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

18 This paragraph shall not apply to the following:

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

26 (ii) any item of intangible expense or cost

1 paid, accrued, or incurred, directly or
2 indirectly, if the taxpayer can establish, based
3 on a preponderance of the evidence, both of the
4 following:

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

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

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

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

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

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

1 ~~of the Internal Revenue Code) with respect to the stock~~
2 ~~of the same person to whom the intangible expenses and~~
3 ~~costs were directly or indirectly paid, incurred, or~~
4 ~~accrued. The preceding sentence does not apply to the~~
5 ~~extent that the same dividends caused a reduction to~~
6 ~~the addition modification required under Section~~
7 ~~203(a)(2)(D-17) of this Act;~~

8 ~~(E-15) For taxable years beginning after December~~
9 ~~31, 2008, any deduction for dividends paid to a~~
10 ~~corporation by a captive real estate trust that is~~
11 ~~allowed to a real estate investment trust under Section~~
12 ~~857(b)(2)(B) of the Internal Revenue Code for~~
13 ~~dividends paid;~~

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

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

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

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

26 (I) With the exception of any amounts subtracted

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

14 (J) An amount equal to all amounts included in such
15 total which are exempt from taxation by this State
16 either by reason of its statutes or Constitution or by
17 reason of the Constitution, treaties or statutes of the
18 United States; provided that, in the case of any
19 statute of this State ~~or, for taxable years ending on~~
20 ~~or after December 31, 2008, of the United States, any~~
21 ~~treaty of the United States, the Illinois~~
22 ~~Constitution, or the United States Constitution~~ that
23 exempts income derived from bonds or other obligations
24 from the tax imposed under this Act, the amount
25 exempted shall be the ~~income~~ interest net of bond
26 premium amortization, ~~and, for taxable years ending on~~

1 ~~or after December 31, 2008, interest expense incurred~~
2 ~~on indebtedness to carry the bond or other obligation,~~
3 ~~expenses incurred in producing the income to be~~
4 ~~deducted, and all other related expenses. The amount of~~
5 ~~expenses to be taken into account under this provision~~
6 ~~may not exceed the amount of income that is exempted;~~

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

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

26 (M) For any taxpayer that is a financial

1 organization within the meaning of Section 304(c) of
2 this Act, an amount included in such total as interest
3 income from a loan or loans made by such taxpayer to a
4 borrower, to the extent that such a loan is secured by
5 property which is eligible for the Enterprise Zone
6 Investment Credit or the River Edge Redevelopment Zone
7 Investment Credit. To determine the portion of a loan
8 or loans that is secured by property eligible for a
9 Section 201(f) investment credit to the borrower, the
10 entire principal amount of the loan or loans between
11 the taxpayer and the borrower should be divided into
12 the basis of the Section 201(f) investment credit
13 property which secures the loan or loans, using for
14 this purpose the original basis of such property on the
15 date that it was placed in service in the Enterprise
16 Zone or the River Edge Redevelopment Zone. The
17 subtraction modification available to taxpayer in any
18 year under this subsection shall be that portion of the
19 total interest paid by the borrower with respect to
20 such loan attributable to the eligible property as
21 calculated under the previous sentence. This
22 subparagraph (M) is exempt from the provisions of
23 Section 250;

24 (M-1) For any taxpayer that is a financial
25 organization within the meaning of Section 304(c) of
26 this Act, an amount included in such total as interest

1 income from a loan or loans made by such taxpayer to a
2 borrower, to the extent that such a loan is secured by
3 property which is eligible for the High Impact Business
4 Investment Credit. To determine the portion of a loan
5 or loans that is secured by property eligible for a
6 Section 201(h) investment credit to the borrower, the
7 entire principal amount of the loan or loans between
8 the taxpayer and the borrower should be divided into
9 the basis of the Section 201(h) investment credit
10 property which secures the loan or loans, using for
11 this purpose the original basis of such property on the
12 date that it was placed in service in a federally
13 designated Foreign Trade Zone or Sub-Zone located in
14 Illinois. No taxpayer that is eligible for the
15 deduction provided in subparagraph (M) of paragraph
16 (2) of this subsection shall be eligible for the
17 deduction provided under this subparagraph (M-1). The
18 subtraction modification available to taxpayers in any
19 year under this subsection shall be that portion of the
20 total interest paid by the borrower with respect to
21 such loan attributable to the eligible property as
22 calculated under the previous sentence;

23 (N) Two times any contribution made during the
24 taxable year to a designated zone organization to the
25 extent that the contribution (i) qualifies as a
26 charitable contribution under subsection (c) of

1 Section 170 of the Internal Revenue Code and (ii) must,
2 by its terms, be used for a project approved by the
3 Department of Commerce and Economic Opportunity under
4 Section 11 of the Illinois Enterprise Zone Act or under
5 Section 10-10 of the Illinois River Edge Redevelopment
6 Zone Act. This subparagraph (N) is exempt from the
7 provisions of Section 250;

8 (O) An amount equal to: (i) 85% for taxable years
9 ending on or before December 31, 1992, or, a percentage
10 equal to the percentage allowable under Section
11 243(a)(1) of the Internal Revenue Code of 1986 for
12 taxable years ending after December 31, 1992, of the
13 amount by which dividends included in taxable income
14 and received from a corporation that is not created or
15 organized under the laws of the United States or any
16 state or political subdivision thereof, including, for
17 taxable years ending on or after December 31, 1988,
18 dividends received or deemed received or paid or deemed
19 paid under Sections 951 through 964 of the Internal
20 Revenue Code, exceed the amount of the modification
21 provided under subparagraph (G) of paragraph (2) of
22 this subsection (b) which is related to such dividends,
23 ~~and including, for taxable years ending on or after~~
24 ~~December 31, 2008, dividends received from a real~~
25 ~~estate investment trust; plus (ii) 100% of the amount~~
26 by which dividends, included in taxable income and

1 received, including, for taxable years ending on or
2 after December 31, 1988, dividends received or deemed
3 received or paid or deemed paid under Sections 951
4 through 964 of the Internal Revenue Code ~~and including,~~
5 ~~for taxable years ending on or after December 31, 2008,~~
6 ~~dividends received from a real estate investment~~
7 ~~trust,~~ from any such corporation specified in clause
8 (i) that would but for the provisions of Section 1504
9 (b) (3) of the Internal Revenue Code be treated as a
10 member of the affiliated group which includes the
11 dividend recipient, exceed the amount of the
12 modification provided under subparagraph (G) of
13 paragraph (2) of this subsection (b) which is related
14 to such dividends;

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

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

23 (R) On and after July 20, 1999, in the case of an
24 attorney-in-fact with respect to whom an interinsurer
25 or a reciprocal insurer has made the election under
26 Section 835 of the Internal Revenue Code, 26 U.S.C.

1 835, an amount equal to the excess, if any, of the
2 amounts paid or incurred by that interinsurer or
3 reciprocal insurer in the taxable year to the
4 attorney-in-fact over the deduction allowed to that
5 interinsurer or reciprocal insurer with respect to the
6 attorney-in-fact under Section 835(b) of the Internal
7 Revenue Code for the taxable year; the provisions of
8 this subparagraph are exempt from the provisions of
9 Section 250;

10 (S) For taxable years ending on or after December
11 31, 1997, in the case of a Subchapter S corporation, an
12 amount equal to all amounts of income allocable to a
13 shareholder subject to the Personal Property Tax
14 Replacement Income Tax imposed by subsections (c) and
15 (d) of Section 201 of this Act, including amounts
16 allocable to organizations exempt from federal income
17 tax by reason of Section 501(a) of the Internal Revenue
18 Code. This subparagraph (S) is exempt from the
19 provisions of Section 250;

20 (T) For taxable years 2001 and thereafter, for the
21 taxable year in which the bonus depreciation deduction
22 is taken on the taxpayer's federal income tax return
23 under subsection (k) of Section 168 of the Internal
24 Revenue Code and for each applicable taxable year
25 thereafter, an amount equal to "x", where:

26 (1) "y" equals the amount of the depreciation

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

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

11 (3) for taxable years ending after December
12 31, 2005:

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

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

22 The aggregate amount deducted under this
23 subparagraph in all taxable years for any one piece of
24 property may not exceed the amount of the bonus
25 depreciation deduction taken on that property on the
26 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code. This
2 subparagraph (T) is exempt from the provisions of
3 Section 250;

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

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

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

19 This subparagraph (U) is exempt from the
20 provisions of Section 250;

21 (V) The amount of: (i) any interest income (net of
22 the deductions allocable thereto) taken into account
23 for the taxable year with respect to a transaction with
24 a taxpayer that is required to make an addition
25 modification with respect to such transaction under
26 Section 203(a)(2)(D-17), 203(b)(2)(E-12),

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

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

1 taxable year under Section 203(b)(2)(E-12) for
2 interest paid, accrued, or incurred, directly or
3 indirectly, to the same foreign person; and

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

24 ~~(FF) An amount equal to the income from insurance~~
25 ~~premiums taken into account for the taxable year (net~~
26 ~~of the deductions allocable thereto) with respect to~~

1 ~~transactions with a person who would be a member of the~~
2 ~~same unitary business group but for the fact that the~~
3 ~~person is prohibited under Section 1501(a) (27) from~~
4 ~~being included in the unitary business group because he~~
5 ~~or she is ordinarily required to apportion business~~
6 ~~income under different subsections of Section 304, but~~
7 ~~not to exceed the addition modification required to be~~
8 ~~made for the same taxable year under Section~~
9 ~~203(a) (2) (D-18) for intangible expenses and costs~~
10 ~~paid, accrued, or incurred, directly or indirectly, to~~
11 ~~the same person.~~

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

16 (c) Trusts and estates.

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

20 (2) Modifications. Subject to the provisions of
21 paragraph (3), the taxable income referred to in paragraph
22 (1) shall be modified by adding thereto the sum of the
23 following amounts:

24 (A) An amount equal to all amounts paid or accrued
25 to the taxpayer as interest or dividends during the

1 taxable year to the extent excluded from gross income
2 in the computation of taxable income;

3 (B) In the case of (i) an estate, \$600; (ii) a
4 trust which, under its governing instrument, is
5 required to distribute all of its income currently,
6 \$300; and (iii) any other trust, \$100, but in each such
7 case, only to the extent such amount was deducted in
8 the computation of taxable income;

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

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

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

26 (i) the addition modification relating to the

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

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

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

20 (F) For taxable years ending on or after January 1,
21 1989, an amount equal to the tax deducted pursuant to
22 Section 164 of the Internal Revenue Code if the trust
23 or estate is claiming the same tax for purposes of the
24 Illinois foreign tax credit under Section 601 of this
25 Act;

26 (G) An amount equal to the amount of the capital

1 gain deduction allowable under the Internal Revenue
2 Code, to the extent deducted from gross income in the
3 computation of taxable income;

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

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

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

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

1 equal to that subtraction modification.

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

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

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

7 This paragraph shall not apply to the following:

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

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

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

23 (b) the transaction giving rise to the
24 interest expense between the taxpayer and the
25 foreign person did not have as a principal
26 purpose the avoidance of Illinois income tax,

1 and is paid pursuant to a contract or agreement
2 that reflects an arm's-length interest rate
3 and terms; or

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

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

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

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

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

21 This paragraph shall not apply to the following:

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

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

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

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

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

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

~~(including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act.~~

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

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

(I) The valuation limitation amount;

(J) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer

1 and included in such total for the taxable year;

2 (K) An amount equal to all amounts included in
3 taxable income as modified by subparagraphs (A), (B),
4 (C), (D), (E), (F) and (G) which are exempt from
5 taxation by this State either by reason of its statutes
6 or Constitution or by reason of the Constitution,
7 treaties or statutes of the United States; provided
8 that, in the case of any statute of this State ~~or, for~~
9 ~~taxable years ending on or after December 31, 2008, of~~
10 ~~the United States, any treaty of the United States, the~~
11 ~~Illinois Constitution, or the United States~~
12 ~~Constitution~~ that exempts income derived from bonds or
13 other obligations from the tax imposed under this Act,
14 the amount exempted shall be the ~~income~~ interest net of
15 bond premium amortization, ~~and, for taxable years~~
16 ~~ending on or after December 31, 2008, interest expense~~
17 ~~incurred on indebtedness to carry the bond or other~~
18 ~~obligation, expenses incurred in producing the income~~
19 ~~to be deducted, and all other related expenses. The~~
20 ~~amount of expenses to be taken into account under this~~
21 ~~provision may not exceed the amount of income that is~~
22 ~~exempted;~~

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

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

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

23 (O) An amount equal to those dividends included in
24 such total that were paid by a corporation that
25 conducts business operations in a federally designated
26 Foreign Trade Zone or Sub-Zone and that is designated a

1 High Impact Business located in Illinois; provided
2 that dividends eligible for the deduction provided in
3 subparagraph (M) of paragraph (2) of this subsection
4 shall not be eligible for the deduction provided under
5 this subparagraph (O);

6 (P) An amount equal to the amount of the deduction
7 used to compute the federal income tax credit for
8 restoration of substantial amounts held under claim of
9 right for the taxable year pursuant to Section 1341 of
10 the Internal Revenue Code of 1986;

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

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

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

24 (1) "y" equals the amount of the depreciation
25 deduction taken for the taxable year on the
26 taxpayer's federal income tax return on property

1 for which the bonus depreciation deduction was
2 taken in any year under subsection (k) of Section
3 168 of the Internal Revenue Code, but not including
4 the bonus depreciation deduction;

5 (2) for taxable years ending on or before
6 December 31, 2005, "x" equals "y" multiplied by 30
7 and then divided by 70 (or "y" multiplied by
8 0.429); and

9 (3) for taxable years ending after December
10 31, 2005:

11 (i) for property on which a bonus
12 depreciation deduction of 30% of the adjusted
13 basis was taken, "x" equals "y" multiplied by
14 30 and then divided by 70 (or "y" multiplied by
15 0.429); and

16 (ii) for property on which a bonus
17 depreciation deduction of 50% of the adjusted
18 basis was taken, "x" equals "y" multiplied by
19 1.0.

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

1 Section 250;

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

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

14 The taxpayer is allowed to take the deduction under
15 this subparagraph only once with respect to any one
16 piece of property.

17 This subparagraph (S) is exempt from the
18 provisions of Section 250;

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

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

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

1 indirectly, to the same foreign person; and

2 (V) An amount equal to the income from intangible
3 property taken into account for the taxable year (net
4 of the 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(c)(2)(G-13) for
12 intangible expenses and costs paid, accrued, or
13 incurred, directly or indirectly, to the same foreign
14 person; ~~and.~~

15 ~~(FF) An amount equal to the income from insurance~~
16 ~~premiums taken into account for the taxable year (net~~
17 ~~of the deductions allocable thereto) with respect to~~
18 ~~transactions with a person who would be a member of the~~
19 ~~same unitary business group but for the fact that the~~
20 ~~person is prohibited under Section 1501(a)(27) from~~
21 ~~being included in the unitary business group because he~~
22 ~~or she is ordinarily required to apportion business~~
23 ~~income under different subsections of Section 304, but~~
24 ~~not to exceed the addition modification required to be~~
25 ~~made for the same taxable year under Section~~
26 ~~203(a)(2)(D-18) for intangible expenses and costs~~

1 ~~paid, accrued, or incurred, directly or indirectly, to~~
2 ~~the same person.~~

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

10 (d) Partnerships.

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

14 (2) Modifications. The taxable income referred to in
15 paragraph (1) shall be modified by adding thereto the sum
16 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 taxable income;

21 (B) An amount equal to the amount of tax imposed by
22 this Act to the extent deducted from gross income for
23 the taxable year;

24 (C) The amount of deductions allowed to the
25 partnership pursuant to Section 707 (c) of the Internal

1 Revenue Code in calculating its taxable income;

2 (D) An amount equal to the amount of the capital
3 gain deduction allowable under the Internal Revenue
4 Code, to the extent deducted from gross income in the
5 computation of taxable income;

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

11 (D-6) If the taxpayer sells, transfers, abandons,
12 or otherwise disposes of property for which the
13 taxpayer was required in any taxable year to make an
14 addition modification under subparagraph (D-5), then
15 an amount equal to the aggregate amount of the
16 deductions taken in all taxable years under
17 subparagraph (O) with respect to that property.

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

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with

1 respect to any one piece of property;

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

1 Internal Revenue Code) with respect to the stock of the
2 same person to whom the interest was paid, accrued, or
3 incurred.

4 This paragraph shall not apply to the following:

5 (i) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to 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 interest; or

11 (ii) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a foreign
13 person if the taxpayer can establish, based on a
14 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 interest to a person that is not a related
19 member, and

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

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

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

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

24 (D-8) ~~An~~ For taxable years ending on or after
25 December 31, 2004, an amount equal to the amount of
26 intangible expenses and costs otherwise allowed as a

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

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

18 This paragraph shall not apply to the following:

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

26 (ii) any item of intangible expense or cost

1 paid, accrued, or incurred, directly or
2 indirectly, if the taxpayer can establish, based
3 on a preponderance of the evidence, both of the
4 following:

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

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

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

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

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

8 ~~(D 9) For taxable years ending on or after December~~
9 ~~31, 2008, an amount equal to the amount of insurance~~
10 ~~premium expenses and costs otherwise allowed as a~~
11 ~~deduction in computing base income, and that were paid,~~
12 ~~accrued, or incurred, directly or indirectly, to a~~
13 ~~person who would be a member of the same unitary~~
14 ~~business group but for the fact that the person is~~
15 ~~prohibited under Section 1501(a)(27) from being~~
16 ~~included in the unitary business group because he or~~
17 ~~she is ordinarily required to apportion business~~
18 ~~income under different subsections of Section 304. The~~
19 ~~addition modification required by this subparagraph~~
20 ~~shall be reduced to the extent that dividends were~~
21 ~~included in base income of the unitary group for the~~
22 ~~same taxable year and received by the taxpayer or by a~~
23 ~~member of the taxpayer's unitary business group~~
24 ~~(including amounts included in gross income under~~
25 ~~Sections 951 through 964 of the Internal Revenue Code~~
26 ~~and amounts included in gross income under Section 78~~

1 ~~of the Internal Revenue Code) with respect to the stock~~
2 ~~of the same person to whom the intangible expenses and~~
3 ~~costs were directly or indirectly paid, incurred, or~~
4 ~~accrued. The preceding sentence does not apply to the~~
5 ~~extent that the same dividends caused a reduction to~~
6 ~~the addition modification required under Section~~
7 ~~203(a)(2)(D-17) of this Act.~~

8 and by deducting from the total so obtained the following
9 amounts:

10 (E) The valuation limitation amount;

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

14 (G) An amount equal to all amounts included in
15 taxable income as modified by subparagraphs (A), (B),
16 (C) and (D) which are exempt from taxation by this
17 State either by reason of its statutes or Constitution
18 or by reason of the Constitution, treaties or statutes
19 of the United States; provided that, in the case of any
20 statute of this State ~~or, for taxable years ending on~~
21 ~~or after December 31, 2008, of the United States, any~~
22 ~~treaty of the United States, the Illinois~~
23 ~~Constitution, or the United States Constitution~~ that
24 exempts income derived from bonds or other obligations
25 from the tax imposed under this Act, the amount
26 exempted shall be the ~~income~~ interest net of bond

1 premium amortization, ~~and, for taxable years ending on~~
2 ~~or after December 31, 2008, interest expense incurred~~
3 ~~on indebtedness to carry the bond or other obligation,~~
4 ~~expenses incurred in producing the income to be~~
5 ~~deducted, and all other related expenses. The amount of~~
6 ~~expenses to be taken into account under this provision~~
7 ~~may not exceed the amount of income that is exempted;~~

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

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

21 (J) With the exception of any amounts subtracted
22 under subparagraph (G), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a) (2), and 265(2) of the Internal Revenue Code of
25 1954, as now or hereafter amended, and all amounts of
26 expenses allocable to interest and disallowed as

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

8 (K) An amount equal to those dividends included in
9 such total which were paid by a corporation which
10 conducts business operations in an Enterprise Zone or
11 zones created under the Illinois Enterprise Zone Act,
12 enacted by the 82nd General Assembly, or a River Edge
13 Redevelopment Zone or zones created under the River
14 Edge Redevelopment Zone Act and conducts substantially
15 all of its operations in an Enterprise Zone or Zones or
16 from a River Edge Redevelopment Zone or zones. This
17 subparagraph (K) is exempt from the provisions of
18 Section 250;

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

22 (M) An amount equal to those dividends included in
23 such total that were paid by a corporation that
24 conducts business operations in a federally designated
25 Foreign Trade Zone or Sub-Zone and that is designated a
26 High Impact Business located in Illinois; provided

1 that dividends eligible for the deduction provided in
2 subparagraph (K) of paragraph (2) of this subsection
3 shall not be eligible for the deduction provided under
4 this subparagraph (M);

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

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

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

23 (2) for taxable years ending on or before
24 December 31, 2005, "x" equals "y" multiplied by 30
25 and then divided by 70 (or "y" multiplied by
26 0.429); and

1 (3) for taxable years ending after December
2 31, 2005:

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

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

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

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

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

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

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

9 This subparagraph (P) is exempt from the
10 provisions of Section 250;

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

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

20 (S) An amount equal to the income from intangible
21 property taken into account for the taxable year (net
22 of the deductions allocable thereto) with respect to
23 transactions with ~~(i)~~ a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that

1 person's total business activity and ~~(ii) for taxable~~
2 ~~years ending on or after December 31, 2008, to a person~~
3 ~~who would be a member of the same unitary business~~
4 ~~group but for the fact that the person is prohibited~~
5 ~~under Section 1501(a) (27) from being included in the~~
6 ~~unitary business group because he or she is ordinarily~~
7 ~~required to apportion business income under different~~
8 ~~subsections of Section 304, but not to exceed the~~
9 addition modification required to be made for the same
10 taxable year under Section 203(d) (2) (D-8) for
11 intangible expenses and costs paid, accrued, or
12 incurred, directly or indirectly, to the same foreign
13 person; and.

14 ~~(FF) An amount equal to the income from insurance~~
15 ~~premiums taken into account for the taxable year (net~~
16 ~~of the deductions allocable thereto) with respect to~~
17 ~~transactions with a person who would be a member of the~~
18 ~~same unitary business group but for the fact that the~~
19 ~~person is prohibited under Section 1501(a) (27) from~~
20 ~~being included in the unitary business group because he~~
21 ~~or she is ordinarily required to apportion business~~
22 ~~income under different subsections of Section 304, but~~
23 ~~not to exceed the addition modification required to be~~
24 ~~made for the same taxable year under Section~~
25 ~~203(a) (2) (D-18) for intangible expenses and costs~~
26 ~~paid, accrued, or incurred, directly or indirectly, to~~

1 ~~the same person.~~

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

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

1 subparagraph (E) of paragraph (2) of subsection (c) for
2 trusts and estates, exceed subtraction modifications, an
3 addition modification must be made under those
4 subparagraphs for any other taxable year to which the
5 taxable income less than zero (net operating loss) is
6 applied under Section 172 of the Internal Revenue Code or
7 under subparagraph (E) of paragraph (2) of this subsection
8 (e) applied in conjunction with Section 172 of the Internal
9 Revenue Code.

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

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

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

24 (C) Regulated investment companies. In the case of
25 a regulated investment company subject to the tax
26 imposed by Section 852 of the Internal Revenue Code,

1 investment company taxable income;

2 (D) Real estate investment trusts. In the case of a
3 real estate investment trust subject to the tax imposed
4 by Section 857 of the Internal Revenue Code, real
5 estate investment trust taxable income;

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

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

23 (G) Subchapter S corporations. In the case of: (i)
24 a Subchapter S corporation for which there is in effect
25 an election for the taxable year under Section 1362 of
26 the Internal Revenue Code, the taxable income of such

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

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

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

1 related to that asset or business that generated the
2 non-business income shall be added back and recaptured as
3 business income in the year of the disposition of the asset
4 or business. Such amount shall be apportioned to Illinois
5 using the greater of the apportionment fraction computed
6 for the business under Section 304 of this Act for the
7 taxable year or the average of the apportionment fractions
8 computed for the business under Section 304 of this Act for
9 the taxable year and for the 2 immediately preceding
10 taxable years.

11 (f) Valuation limitation amount.

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

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

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

1 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

25 (C) The Department shall prescribe such
26 regulations as may be necessary to carry out the

1 purposes of this paragraph.

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

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

14 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
15 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
16 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07;
17 09500SB1544enr.)

18 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

19 Sec. 205. Exempt organizations.

20 (a) Charitable, etc. organizations. The base income of an
21 organization which is exempt from the federal income tax by
22 reason of Section 501(a) of the Internal Revenue Code shall not
23 be determined under section 203 of this Act, but shall be its

1 unrelated business taxable income as determined under section
2 512 of the Internal Revenue Code, without any deduction for the
3 tax imposed by this Act. The standard exemption provided by
4 section 204 of this Act shall not be allowed in determining the
5 net income of an organization to which this subsection applies.

6 (b) Partnerships. A partnership as such shall not be
7 subject to the tax imposed by subsection 201 (a) and (b) of
8 this Act, but shall be subject to the replacement tax imposed
9 by subsection 201 (c) and (d) of this Act and shall compute its
10 base income as described in subsection (d) of Section 203 of
11 this Act. For taxable years ending on or after December 31,
12 2004, an investment partnership, as defined in Section
13 1501(a)(11.5) of this Act, shall not be subject to the tax
14 imposed by subsections (c) and (d) of Section 201 of this Act.
15 A partnership shall file such returns and other information at
16 such time and in such manner as may be required under Article 5
17 of this Act. The partners in a partnership shall be liable for
18 the replacement tax imposed by subsection 201 (c) and (d) of
19 this Act on such partnership, to the extent such tax is not
20 paid by the partnership, as provided under the laws of Illinois
21 governing the liability of partners for the obligations of a
22 partnership. Persons carrying on business as partners shall be
23 liable for the tax imposed by subsection 201 (a) and (b) of
24 this Act only in their separate or individual capacities.

25 (c) Subchapter S corporations. A Subchapter S corporation
26 shall not be subject to the tax imposed by subsection 201 (a)

1 and (b) of this Act but shall be subject to the replacement tax
2 imposed by subsection 201 (c) and (d) of this Act and shall
3 file such returns and other information at such time and in
4 such manner as may be required under Article 5 of this Act.

5 (d) Combat zone death. An individual relieved from the
6 federal income tax for any taxable year by reason of section
7 692 of the Internal Revenue Code shall not be subject to the
8 tax imposed by this Act for such taxable year.

9 (e) Certain trusts. A common trust fund described in
10 Section 584 of the Internal Revenue Code, and any other trust
11 to the extent that the grantor is treated as the owner thereof
12 under sections 671 through 678 of the Internal Revenue Code
13 shall not be subject to the tax imposed by this Act.

14 (f) Certain business activities. A person not otherwise
15 subject to the tax imposed by this Act shall not become subject
16 to the tax imposed by this Act by reason of:

17 (1) that person's ownership of tangible personal
18 property located at the premises of a printer in this State
19 with which the person has contracted for printing, or

20 (2) activities of the person's employees or agents
21 located solely at the premises of a printer and related to
22 quality control, distribution, or printing services
23 performed by a printer in the State with which the person
24 has contracted for printing.

25 (g) A nonprofit risk organization that holds a certificate
26 of authority under Article VIID of the Illinois Insurance Code

1 is exempt from the tax imposed under this Act with respect to
2 its activities or operations in furtherance of the powers
3 conferred upon it under that Article VIID of the Illinois
4 Insurance Code.

5 (Source: P.A. 93-840, eff. 7-30-04; 93-918, eff. 1-1-05;
6 revised 10-25-04; 09500SB1544enr.)

7 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

8 Sec. 207. Net Losses.

9 (a) If after applying all of the ~~(i)~~ modifications provided
10 for in paragraph (2) of Section 203(b), paragraph (2) of
11 Section 203(c) and paragraph (2) of Section 203(d) and ~~(ii)~~ the
12 allocation and apportionment provisions of Article 3 of this
13 Act ~~and subsection (e) of this Section~~, the taxpayer's net
14 income results in a loss;

15 (1) for any taxable year ending prior to December 31,
16 1999, such loss shall be allowed as a carryover or
17 carryback deduction in the manner allowed under Section 172
18 of the Internal Revenue Code;

19 (2) for any taxable year ending on or after December
20 31, 1999 and prior to December 31, 2003, such loss shall be
21 allowed as a carryback to each of the 2 taxable years
22 preceding the taxable year of such loss and shall be a net
23 operating ~~loss~~ carryover to each of the 20 taxable years
24 following the taxable year of such loss; and

25 (3) for any taxable year ending on or after December

1 31, 2003, such loss shall be allowed as a net operating
2 ~~loss~~ carryover to each of the 12 taxable years following
3 the taxable year of such loss.

4 (a-5) Election to relinquish carryback and order of
5 application of losses.

6 (A) For losses incurred in tax years ending prior
7 to December 31, 2003, the taxpayer may elect to
8 relinquish the entire carryback period with respect to
9 such loss. Such election shall be made in the form and
10 manner prescribed by the Department and shall be made
11 by the due date (including extensions of time) for
12 filing the taxpayer's return for the taxable year in
13 which such loss is incurred, and such election, once
14 made, shall be irrevocable.

15 (B) The entire amount of such loss shall be carried
16 to the earliest taxable year to which such loss may be
17 carried. The amount of such loss which shall be carried
18 to each of the other taxable years shall be the excess,
19 if any, of the amount of such loss over the sum of the
20 deductions for carryback or carryover of such loss
21 allowable for each of the prior taxable years to which
22 such loss may be carried.

23 (b) Any loss determined under subsection (a) of this
24 Section must be carried back or carried forward in the same
25 manner for purposes of subsections (a) and (b) of Section 201
26 of this Act as for purposes of subsections (c) and (d) of

1 Section 201 of this Act.

2 ~~(c) Notwithstanding any other provision of this Act, for~~
3 ~~each taxable year ending on or after December 31, 2008, for~~
4 ~~purposes of computing the loss for the taxable year under~~
5 ~~subsection (a) of this Section and the deduction taken into~~
6 ~~account for the taxable year for a net operating loss carryover~~
7 ~~under paragraphs (1), (2), and (3) of subsection (a) of this~~
8 ~~Section, the loss and net operating loss carryover shall be~~
9 ~~reduced in an amount equal to the reduction to the net~~
10 ~~operating loss and net operating loss carryover to the taxable~~
11 ~~year, respectively, required under Section 108(b)(2)(A) of the~~
12 ~~Internal Revenue Code, multiplied by a fraction, the numerator~~
13 ~~of which is the amount of discharge of indebtedness income that~~
14 ~~is excluded from gross income for the taxable year (but only if~~
15 ~~the taxable year ends on or after December 31, 2008) under~~
16 ~~Section 108(a) of the Internal Revenue Code and that would have~~
17 ~~been allocated and apportioned to this State under Article 3 of~~
18 ~~this Act but for that exclusion, and the denominator of which~~
19 ~~is the total amount of discharge of indebtedness income~~
20 ~~excluded from gross income under Section 108(a) of the Internal~~
21 ~~Revenue Code for the taxable year. The reduction required under~~
22 ~~this subsection (c) shall be made after the determination of~~
23 ~~Illinois net income for the taxable year in which the~~
24 ~~indebtedness is discharged.~~

25 (Source: P.A. 93-29, eff. 6-20-03; 09500SB1544enr.)

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

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

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

23 (1) Property factor.

24 (A) The property factor is a fraction, the numerator of
25 which is the average value of the person's real and
26 tangible personal property owned or rented and used in the

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

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

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

17 (2) Payroll factor.

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

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

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

26 (ii) The individual's service is performed both

1 within and without this State, but the service
2 performed without this State is incidental to the
3 individual's service performed within this State; or

4 (iii) Some of the service is performed within this
5 State and either the base of operations, or if there is
6 no base of operations, the place from which the service
7 is directed or controlled is within this State, or the
8 base of operations or the place from which the service
9 is directed or controlled is not in any state in which
10 some part of the service is performed, but the
11 individual's residence is in this State.

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

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

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

1 State. However, such travel days are considered in the
2 total duty days spent both within and without this
3 State.

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

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

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

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

1 last game in which the team competes or is
2 scheduled to compete, occurs during more than one
3 tax year.

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

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

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

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

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

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

25 (4) The term "total compensation for services
26 performed as a member of a professional athletic

1 team" means the total compensation received during
2 the taxable year for services performed:

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

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

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

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

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

13 (3) Sales factor.

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

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

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

24 (ii) The property is shipped from an office, store,
25 warehouse, factory or other place of storage in this
26 State and either the purchaser is the United States

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

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

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

22 (ii) Place of utilization.

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

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

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

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

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

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

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

19 (C) ~~For taxable years ending before December 31, 2008,~~
20 ~~sales~~ Sales, other than sales governed by paragraphs (B) ~~7~~
21 and (B-1) ~~, and (B-2)~~, are in this State if:

22 (i) The income-producing activity is performed in
23 this State; or

24 (ii) The income-producing activity is performed
25 both within and without this State and a greater
26 proportion of the income-producing activity is

1 performed within this State than without this State,
2 based on performance costs.

3 ~~(C-5) For taxable years ending on or after December 31,~~
4 ~~2008, sales, other than sales governed by paragraphs (B),~~
5 ~~(B-1), and (B-2), are in this State if the purchaser is in~~
6 ~~this State or the sale is otherwise attributable to this~~
7 ~~State's marketplace. The following examples are~~
8 ~~illustrative:~~

9 ~~(i) Sales from the sale or lease of real property~~
10 ~~are in this State if the property is located in this~~
11 ~~State.~~

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

21 ~~(iii) Sales of intangible personal property are in~~
22 ~~this State if the purchaser realizes benefit from the~~
23 ~~property in this State. If the purchaser realizes~~
24 ~~benefit from the property both within and without this~~
25 ~~State, the gross receipts from the sale shall be~~
26 ~~divided among those states in which the taxpayer is~~

1 ~~taxable in proportion to the benefit in each state. If~~
2 ~~the proportionate benefit in this State cannot be~~
3 ~~determined, the sale shall be excluded from both the~~
4 ~~numerator and the denominator of the sales factor.~~

5 ~~(iv) Sales of services are in this State if the~~
6 ~~benefit of the service is realized in this State. If~~
7 ~~the benefit of the service is realized both within and~~
8 ~~without this State, the gross receipts from the sale~~
9 ~~shall be divided among those states in which the~~
10 ~~taxpayer is taxable in proportion to the benefit of~~
11 ~~service realized in each state. If the proportionate~~
12 ~~benefit in this State cannot be determined, the sale~~
13 ~~shall be excluded from both the numerator and the~~
14 ~~denominator of the sales factor. The Department may~~
15 ~~adopt rules prescribing where the benefit of specific~~
16 ~~types of service, including, but not limited to,~~
17 ~~telecommunications, broadcast, cable, advertising,~~
18 ~~publishing, and utility service, is realized.~~

19 (D) For taxable years ending on or after December 31,
20 1995, the following items of income shall not be included
21 in the numerator or denominator of the sales factor:
22 dividends; amounts included under Section 78 of the
23 Internal Revenue Code; and Subpart F income as defined in
24 Section 952 of the Internal Revenue Code. No inference
25 shall be drawn from the enactment of this paragraph (D) in
26 construing this Section for taxable years ending before

1 December 31, 1995.

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

19 (b) Insurance companies.

20 (1) In general. Except as otherwise provided by
21 paragraph (2), business income of an insurance company for
22 a taxable year shall be apportioned to this State by
23 multiplying such income by a fraction, the numerator of
24 which is the direct premiums written for insurance upon
25 property or risk in this State, and the denominator of
26 which is the direct premiums written for insurance upon

1 property or risk everywhere. For purposes of this
2 subsection, the term "direct premiums written" means the
3 total amount of direct premiums written, assessments and
4 annuity considerations as reported for the taxable year on
5 the annual statement filed by the company with the Illinois
6 Director of Insurance in the form approved by the National
7 Convention of Insurance Commissioners or such other form as
8 may be prescribed in lieu thereof.

9 (2) Reinsurance. If the principal source of premiums
10 written by an insurance company consists of premiums for
11 reinsurance accepted by it, the business income of such
12 company shall be apportioned to this State by multiplying
13 such income by a fraction, the numerator of which is the
14 sum of (i) direct premiums written for insurance upon
15 property or risk in this State, plus (ii) premiums written
16 for reinsurance accepted in respect of property or risk in
17 this State, and the denominator of which is the sum of
18 (iii) direct premiums written for insurance upon property
19 or risk everywhere, plus (iv) premiums written for
20 reinsurance accepted in respect of property or risk
21 everywhere. For ~~taxable years ending before December 31,~~
22 ~~2008,~~ for purposes of this paragraph, premiums written for
23 reinsurance accepted in respect of property or risk in this
24 State, whether or not otherwise determinable, may, at the
25 election of the company, be determined on the basis of the
26 proportion which premiums written for reinsurance accepted

1 from companies commercially domiciled in Illinois bears to
2 premiums written for reinsurance accepted from all
3 sources, or, alternatively, in the proportion which the sum
4 of the direct premiums written for insurance upon property
5 or risk in this State by each ceding company from which
6 reinsurance is accepted bears to the sum of the total
7 direct premiums written by each such ceding company for the
8 taxable year.

9 (c) Financial organizations.

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

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

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

26 (C) Dividends, and interest from Illinois

1 customers, which are received within this State;

2 (D) Interest charged to customers at places of
3 business maintained within this State for carrying
4 debit balances of margin accounts, without deduction
5 of any costs incurred in carrying such accounts; and

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

18 (2) International Banking Facility. ~~For taxable years~~
19 ~~ending before December 31, 2008:~~

20 (A) Adjusted Income. The adjusted income of an
21 international banking facility is its income reduced
22 by the amount of the floor amount.

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

1 (i) The numerator shall be:

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

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

26 (ii) the denominator shall be the average

1 aggregate, determined on a quarterly basis, of the
2 international banking facility's loans to banks in
3 foreign countries, to foreign domiciled borrowers
4 (except where secured primarily by real estate)
5 and to foreign governments and other foreign
6 official institutions, which were recorded in its
7 financial accounts for the current taxable year.

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

25 ~~(3) For taxable years ending on or after December 31,~~
26 ~~2008, the business income of a financial organization shall~~

1 ~~be apportioned to this State by multiplying such income by~~
2 ~~a fraction, the numerator of which is its gross receipts~~
3 ~~from sources in this State or otherwise attributable to~~
4 ~~this State's marketplace and the denominator of which is~~
5 ~~its gross receipts everywhere during the taxable year.~~
6 ~~"Gross receipts" for purposes of this subparagraph (3)~~
7 ~~means gross income, including net taxable gain on~~
8 ~~disposition of assets, including securities and money~~
9 ~~market instruments, when derived from transactions and~~
10 ~~activities in the regular course of the financial~~
11 ~~organization's trade or business. If a person derives~~
12 ~~business income from activities in addition to the~~
13 ~~provision of financial services, this subparagraph (3)~~
14 ~~shall apply only to its business income from financial~~
15 ~~services, and its other business income shall be~~
16 ~~apportioned to this State under the applicable provisions~~
17 ~~of this Section. The following examples are illustrative:~~

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

1 ~~(ii) Interest income, commissions, fees, gains on~~
2 ~~disposition, and other receipts from assets in the~~
3 ~~nature of loans that are secured primarily by real~~
4 ~~estate or tangible personal property are from sources~~
5 ~~in this State if the security is located in this State.~~

6 ~~(iii) Interest income, commissions, fees, gains on~~
7 ~~disposition, and other receipts from consumer loans~~
8 ~~that are not secured by real or tangible personal~~
9 ~~property are from sources in this State if the debtor~~
10 ~~is a resident of this State.~~

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

24 ~~(v) Interest income, fees, gains on disposition,~~
25 ~~service charges, merchant discount income, and other~~
26 ~~receipts from credit card receivables are from sources~~

1 ~~in this State if the card charges are regularly billed~~
2 ~~to a customer in this State.~~

3 ~~(vi) Receipts from the performance of services,~~
4 ~~including, but not limited to, fiduciary, advisory,~~
5 ~~and brokerage services, are in this State if the~~
6 ~~benefit of the service is realized in this State. If~~
7 ~~the benefit of the service is realized both within and~~
8 ~~without this State, the gross receipts from the sale~~
9 ~~shall be divided among those states in which the~~
10 ~~taxpayer is taxable in proportion to the benefit of~~
11 ~~service realized in each state. If the proportionate~~
12 ~~benefit in this State cannot be determined, the sale~~
13 ~~shall be excluded from both the numerator and the~~
14 ~~denominator of the gross receipts factor.~~

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

19 ~~(viii) In the case of a financial organization that~~
20 ~~accepts deposits, receipts from investments and from~~
21 ~~money market instruments are apportioned to this State~~
22 ~~based on the ratio that the total deposits of the~~
23 ~~financial organization (including all members of the~~
24 ~~financial organization's unitary group) from this~~
25 ~~State, its residents, (including businesses with an~~
26 ~~office or other place of business in this State), and~~

1 ~~its political subdivisions, agencies, and~~
2 ~~instrumentalities bear to total deposits everywhere.~~
3 ~~For purposes of this subdivision, deposits must be~~
4 ~~attributed to this State under the preceding sentence,~~
5 ~~whether or not the deposits are accepted or maintained~~
6 ~~by the financial organization at locations within this~~
7 ~~State. In the case of a financial organization that~~
8 ~~does not accept deposits, receipts from investments in~~
9 ~~securities and from money market instruments shall be~~
10 ~~excluded from the numerator and the denominator of the~~
11 ~~gross receipts factor.~~

12 ~~(4) As used in subparagraph (3), "deposit" includes but~~
13 ~~is not limited to:~~

14 ~~(i) the unpaid balance of money or its equivalent~~
15 ~~received or held by a financial institution in the~~
16 ~~usual course of business and for which it has given or~~
17 ~~is obligated to give credit, either conditionally or~~
18 ~~unconditionally, to a commercial, checking, savings,~~
19 ~~time, or thrift account whether or not advance notice~~
20 ~~is required to withdraw the credited funds, or which is~~
21 ~~evidenced by its certificate of deposit, thrift~~
22 ~~certificate, investment certificate, or certificate of~~
23 ~~indebtedness, or other similar name, or a check or~~
24 ~~draft drawn against a deposit account and certified by~~
25 ~~the financial organization, or a letter of credit or a~~
26 ~~traveler's check on which the financial organization~~

1 ~~is primarily liable. However, without limiting the~~
2 ~~generality of the term "money or its equivalent", any~~
3 ~~such account or instrument must be regarded as~~
4 ~~evidencing the receipt of the equivalent of money when~~
5 ~~credited or issued in exchange for checks or drafts or~~
6 ~~for a promissory note upon which the person obtaining~~
7 ~~the credit or instrument is primarily or secondarily~~
8 ~~liable, or for a charge against a deposit account, or~~
9 ~~in settlement of checks, drafts, or other instruments~~
10 ~~forwarded to the bank for collection;~~

11 ~~(ii) trust funds received or held by the financial~~
12 ~~organization, whether held in the trust department or~~
13 ~~held or deposited in any other department of the~~
14 ~~financial organization;~~

15 ~~(iii) money received or held by a financial~~
16 ~~organization, or the credit given for money or its~~
17 ~~equivalent received or held by a financial~~
18 ~~organization, in the usual course of business for a~~
19 ~~special or specific purpose, regardless of the legal~~
20 ~~relationship so established. Under this paragraph,~~
21 ~~"deposit" includes, but is not limited to, escrow~~
22 ~~funds, funds held as security for an obligation due to~~
23 ~~the financial organization or others, including funds~~
24 ~~held as dealers reserves, or for securities loaned by~~
25 ~~the financial organization, funds deposited by a~~
26 ~~debtor to meet maturing obligations, funds deposited~~

1 ~~as advance payment on subscriptions to United States~~
2 ~~government securities, funds held for distribution or~~
3 ~~purchase of securities, funds held to meet its~~
4 ~~acceptances or letters of credit, and withheld taxes.~~
5 ~~It does not include funds received by the financial~~
6 ~~organization for immediate application to the~~
7 ~~reduction of an indebtedness to the receiving~~
8 ~~financial organization, or under condition that the~~
9 ~~receipt of the funds immediately reduces or~~
10 ~~extinguishes the indebtedness;~~

11 ~~(iv) outstanding drafts, including advice of~~
12 ~~another financial organization, cashier's checks,~~
13 ~~money orders, or other officer's checks issued in the~~
14 ~~usual course of business for any purpose, but not~~
15 ~~including those issued in payment for services,~~
16 ~~dividends, or purchases or other costs or expenses of~~
17 ~~the financial organization itself; and~~

18 ~~(v) money or its equivalent held as a credit~~
19 ~~balance by a financial organization on behalf of its~~
20 ~~customer if the entity is engaged in soliciting and~~
21 ~~holding such balances in the regular course of its~~
22 ~~business.~~

23 ~~(5) As used in subparagraph (3), "money market~~
24 ~~instruments" includes but is not limited to:~~

25 ~~(i) Interest-bearing deposits, federal funds sold~~
26 ~~and securities purchased under agreements to resell,~~

1 ~~commercial paper, banker's acceptances, and purchased~~
2 ~~certificates of deposit and similar instruments to the~~
3 ~~extent that the instruments are reflected as assets~~
4 ~~under generally accepted accounting principles.~~

5 ~~"Securities" means corporate stock, bonds, and~~
6 ~~other securities (including, for purposes of taxation~~
7 ~~of gains on securities and for purchases under~~
8 ~~agreements to resell, United States Treasury~~
9 ~~securities, obligations of United States government~~
10 ~~agencies and corporations, obligations of state and~~
11 ~~political subdivisions, the interest on which is~~
12 ~~exempt from Illinois income tax), participations in~~
13 ~~securities backed by mortgages held by United States or~~
14 ~~state government agencies, loan backed securities, and~~
15 ~~similar investments to the extent the investments are~~
16 ~~reflected as assets under generally accepted~~
17 ~~accounting principles.~~

18 ~~(ii) For purposes of subparagraph (3), "money~~
19 ~~market instruments" shall include investments in~~
20 ~~investment partnerships, trusts, pools, funds,~~
21 ~~investment companies, or any similar entity in~~
22 ~~proportion to the investment of the entity in money~~
23 ~~market instruments, and "securities" shall include~~
24 ~~investments in investment partnerships, trusts, pools,~~
25 ~~funds, investment companies, or any similar entity in~~
26 ~~proportion to the investment of the entity in~~

1 ~~securities.~~

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

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

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

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

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

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

1 ~~any other substance (other than by airline). If a person~~
2 ~~derives business income from activities in addition to the~~
3 ~~provision of transportation services (other than by~~
4 ~~airline), this subsection shall apply only to its business~~
5 ~~income from transportation services and its other business~~
6 ~~income shall be apportioned to this State according to the~~
7 ~~applicable provisions of this Section.~~

8 ~~(4) For taxable years ending on or after December 31,~~
9 ~~2008, business income derived from providing airline~~
10 ~~services shall be apportioned to this State by using a~~
11 ~~fraction, (a) the numerator of which shall be arrivals of~~
12 ~~aircraft to and departures from this State weighted as to~~
13 ~~cost of aircraft by type and (b) the denominator of which~~
14 ~~shall be total arrivals and departures of aircraft weighted~~
15 ~~as to cost of aircraft by type. If a person derives~~
16 ~~business income from activities in addition to the~~
17 ~~provision of airline services, this subsection shall apply~~
18 ~~only to its business income from airline services and its~~
19 ~~other business income shall be apportioned to this State~~
20 ~~under the applicable provisions of this Section.~~

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

1 (f) Alternative allocation. If the allocation and
2 apportionment provisions of subsections (a) through (e) and of
3 subsection (h) do not fairly represent the extent of a person's
4 business activity in this State, the person may petition for,
5 or the Director may, ~~without a petition, permit or require~~, in
6 respect of all or any part of the person's business activity,
7 if reasonable:

8 (1) Separate accounting;

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

10 (3) The inclusion of one or more additional factors
11 which will fairly represent the person's business
12 activities in this State; or

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

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

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

21 (1) for tax years ending on or after December 31, 1998
22 and before December 31, 1999, 16 2/3% of the property
23 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
24 the sales factor;

25 (2) for tax years ending on or after December 31, 1999
26 and before December 31, 2000, 8 1/3% of the property factor

1 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales
2 factor;

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

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

12 (Source: P.A. 94-247, eff. 1-1-06; 09500SB1544enr.)

13 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

14 Sec. 502. Returns and notices.

15 (a) In general. A return with respect to the taxes imposed
16 by this Act shall be made by every person for any taxable year:

17 (1) for which such person is liable for a tax imposed
18 by this Act, or

19 (2) in the case of a resident or in the case of a
20 corporation which is qualified to do business in this
21 State, for which such person is required to make a federal
22 income tax return, regardless of whether such person is
23 liable for a tax imposed by this Act. However, this
24 paragraph shall not require a resident to make a return if
25 such person has an Illinois base income of the basic amount

1 in Section 204(b) or less and is either claimed as a
2 dependent on another person's tax return under the Internal
3 Revenue Code of 1986, or is claimed as a dependent on
4 another person's tax return under this Act.

5 ~~Notwithstanding the provisions of paragraph (1), a~~
6 ~~nonresident whose Illinois income tax liability under~~
7 ~~subsections (a), (b), (c), and (d) of Section 201 of this Act~~
8 ~~is paid in full after taking into account the credits allowed~~
9 ~~under subsection (f) of this Section or allowed under Section~~
10 ~~709.5 of this Act shall not be required to file a return under~~
11 ~~this subsection (a).~~

12 (b) Fiduciaries and receivers.

13 (1) Decedents. If an individual is deceased, any return
14 or notice required of such individual under this Act shall
15 be made by his executor, administrator, or other person
16 charged with the property of such decedent.

17 (2) Individuals under a disability. If an individual is
18 unable to make a return or notice required under this Act,
19 the return or notice required of such individual shall be
20 made by his duly authorized agent, guardian, fiduciary or
21 other person charged with the care of the person or
22 property of such individual.

23 (3) Estates and trusts. Returns or notices required of
24 an estate or a trust shall be made by the fiduciary
25 thereof.

26 (4) Receivers, trustees and assignees for

1 corporations. In a case where a receiver, trustee in
2 bankruptcy, or assignee, by order of a court of competent
3 jurisdiction, by operation of law, or otherwise, has
4 possession of or holds title to all or substantially all
5 the property or business of a corporation, whether or not
6 such property or business is being operated, such receiver,
7 trustee, or assignee shall make the returns and notices
8 required of such corporation in the same manner and form as
9 corporations are required to make such returns and notices.

10 (c) Joint returns by husband and wife.

11 (1) Except as provided in paragraph (3), if a husband
12 and wife file a joint federal income tax return for a
13 taxable year they shall file a joint return under this Act
14 for such taxable year and their liabilities shall be joint
15 and several, but if the federal income tax liability of
16 either spouse is determined on a separate federal income
17 tax return, they shall file separate returns under this
18 Act.

19 (2) If neither spouse is required to file a federal
20 income tax return and either or both are required to file a
21 return under this Act, they may elect to file separate or
22 joint returns and pursuant to such election their
23 liabilities shall be separate or joint and several.

24 (3) If either husband or wife is a resident and the
25 other is a nonresident, they shall file separate returns in
26 this State on such forms as may be required by the

1 Department in which event their tax liabilities shall be
2 separate; but they may elect to determine their joint net
3 income and file a joint return as if both were residents
4 and in such case, their liabilities shall be joint and
5 several.

6 (4) Innocent spouses.

7 (A) However, for tax liabilities arising and paid
8 prior to August 13, 1999, an innocent spouse shall be
9 relieved of liability for tax (including interest and
10 penalties) for any taxable year for which a joint
11 return has been made, upon submission of proof that the
12 Internal Revenue Service has made a determination
13 under Section 6013(e) of the Internal Revenue Code, for
14 the same taxable year, which determination relieved
15 the spouse from liability for federal income taxes. If
16 there is no federal income tax liability at issue for
17 the same taxable year, the Department shall rely on the
18 provisions of Section 6013(e) to determine whether the
19 person requesting innocent spouse abatement of tax,
20 penalty, and interest is entitled to that relief.

21 (B) For tax liabilities arising on and after August
22 13, 1999 or which arose prior to that date, but remain
23 unpaid as of that date, if an individual who filed a
24 joint return for any taxable year has made an election
25 under this paragraph, the individual's liability for
26 any tax shown on the joint return shall not exceed the

1 individual's separate return amount and the
2 individual's liability for any deficiency assessed for
3 that taxable year shall not exceed the portion of the
4 deficiency properly allocable to the individual. For
5 purposes of this paragraph:

6 (i) An election properly made pursuant to
7 Section 6015 of the Internal Revenue Code shall
8 constitute an election under this paragraph,
9 provided that the election shall not be effective
10 until the individual has notified the Department
11 of the election in the form and manner prescribed
12 by the Department.

13 (ii) If no election has been made under Section
14 6015, the individual may make an election under
15 this paragraph in the form and manner prescribed by
16 the Department, provided that no election may be
17 made if the Department finds that assets were
18 transferred between individuals filing a joint
19 return as part of a scheme by such individuals to
20 avoid payment of Illinois income tax and the
21 election shall not eliminate the individual's
22 liability for any portion of a deficiency
23 attributable to an error on the return of which the
24 individual had actual knowledge as of the date of
25 filing.

26 (iii) In determining the separate return

1 amount or portion of any deficiency attributable
2 to an individual, the Department shall follow the
3 provisions in subsections (c) and (d) of Section
4 6015 of the Internal Revenue Code.

5 (iv) In determining the validity of an
6 individual's election under subparagraph (ii) and
7 in determining an electing individual's separate
8 return amount or portion of any deficiency under
9 subparagraph (iii), any determination made by the
10 Secretary of the Treasury, by the United States Tax
11 Court on petition for review of a determination by
12 the Secretary of the Treasury, or on appeal from
13 the United States Tax Court under Section 6015 of
14 the Internal Revenue Code regarding criteria for
15 eligibility or under subsection (d) of Section
16 6015 of the Internal Revenue Code regarding the
17 allocation of any item of income, deduction,
18 payment, or credit between an individual making
19 the federal election and that individual's spouse
20 shall be conclusively presumed to be correct. With
21 respect to any item that is not the subject of a
22 determination by the Secretary of the Treasury or
23 the federal courts, in any proceeding involving
24 this subsection, the individual making the
25 election shall have the burden of proof with
26 respect to any item except that the Department

1 shall have the burden of proof with respect to
2 items in subdivision (ii).

3 (v) Any election made by an individual under
4 this subsection shall apply to all years for which
5 that individual and the spouse named in the
6 election have filed a joint return.

7 (vi) After receiving a notice that the federal
8 election has been made or after receiving an
9 election under subdivision (ii), the Department
10 shall take no collection action against the
11 electing individual for any liability arising from
12 a joint return covered by the election until the
13 Department has notified the electing individual in
14 writing that the election is invalid or of the
15 portion of the liability the Department has
16 allocated to the electing individual. Within 60
17 days (150 days if the individual is outside the
18 United States) after the issuance of such
19 notification, the individual may file a written
20 protest of the denial of the election or of the
21 Department's determination of the liability
22 allocated to him or her and shall be granted a
23 hearing within the Department under the provisions
24 of Section 908. If a protest is filed, the
25 Department shall take no collection action against
26 the electing individual until the decision

1 regarding the protest has become final under
2 subsection (d) of Section 908 or, if
3 administrative review of the Department's decision
4 is requested under Section 1201, until the
5 decision of the court becomes final.

6 (d) Partnerships. Every partnership having any base income
7 allocable to this State in accordance with section 305(c) shall
8 retain information concerning all items of income, gain, loss
9 and deduction; the names and addresses of all of the partners,
10 or names and addresses of members of a limited liability
11 company, or other persons who would be entitled to share in the
12 base income of the partnership if distributed; the amount of
13 the distributive share of each; and such other pertinent
14 information as the Department may by forms or regulations
15 prescribe. The partnership shall make that information
16 available to the Department when requested by the Department.

17 (e) For taxable years ending on or after December 31, 1985,
18 and before December 31, 1993, taxpayers that are corporations
19 (other than Subchapter S corporations) having the same taxable
20 year and that are members of the same unitary business group
21 may elect to be treated as one taxpayer for purposes of any
22 original return, amended return which includes the same
23 taxpayers of the unitary group which joined in the election to
24 file the original return, extension, claim for refund,
25 assessment, collection and payment and determination of the
26 group's tax liability under this Act. This subsection (e) does

1 not permit the election to be made for some, but not all, of
2 the purposes enumerated above. For taxable years ending on or
3 after December 31, 1987, corporate members (other than
4 Subchapter S corporations) of the same unitary business group
5 making this subsection (e) election are not required to have
6 the same taxable year.

7 For taxable years ending on or after December 31, 1993,
8 taxpayers that are corporations (other than Subchapter S
9 corporations) and that are members of the same unitary business
10 group shall be treated as one taxpayer for purposes of any
11 original return, amended return which includes the same
12 taxpayers of the unitary group which joined in filing the
13 original return, extension, claim for refund, assessment,
14 collection and payment and determination of the group's tax
15 liability under this Act.

16 (f) The Department may promulgate regulations to permit
17 nonresident individual partners of the same partnership,
18 nonresident Subchapter S corporation shareholders of the same
19 Subchapter S corporation, and nonresident individuals
20 transacting an insurance business in Illinois under a Lloyds
21 plan of operation, and nonresident individual members of the
22 same limited liability company that is treated as a partnership
23 under Section 1501 (a)(16) of this Act, to file composite
24 individual income tax returns reflecting the composite income
25 of such individuals allocable to Illinois and to make composite
26 individual income tax payments. The Department may by

1 regulation also permit such composite returns to include the
2 income tax owed by Illinois residents attributable to their
3 income from partnerships, Subchapter S corporations, insurance
4 businesses organized under a Lloyds plan of operation, or
5 limited liability companies that are treated as partnership
6 under Section 1501(a)(16) of this Act, in which case such
7 Illinois residents will be permitted to claim credits on their
8 individual returns for their shares of the composite tax
9 payments. This paragraph of subsection (f) applies to taxable
10 years ending on or after December 31, 1987.

11 For taxable years ending on or after December 31, 1999, the
12 Department may, by regulation, also permit any persons
13 transacting an insurance business organized under a Lloyds plan
14 of operation to file composite returns reflecting the income of
15 such persons allocable to Illinois and the tax rates applicable
16 to such persons under Section 201 and to make composite tax
17 payments and shall, by regulation, also provide that the income
18 and apportionment factors attributable to the transaction of an
19 insurance business organized under a Lloyds plan of operation
20 by any person joining in the filing of a composite return
21 shall, for purposes of allocating and apportioning income under
22 Article 3 of this Act and computing net income under Section
23 202 of this Act, be excluded from any other income and
24 apportionment factors of that person or of any unitary business
25 group, as defined in subdivision (a)(27) of Section 1501, to
26 which that person may belong.

1 ~~For taxable years ending on or after December 31, 2008,~~
2 ~~every nonresident shall be allowed a credit against his or her~~
3 ~~liability under subsections (a) and (b) of Section 201 for any~~
4 ~~amount of tax reported on a composite return and paid on his or~~
5 ~~her behalf under this subsection (f). Residents (other than~~
6 ~~persons transacting an insurance business organized under a~~
7 ~~Lloyds plan of operation) may claim a credit for taxes reported~~
8 ~~on a composite return and paid on their behalf under this~~
9 ~~subsection (f) only as permitted by the Department by rule.~~

10 ~~(f 5) For taxable years ending on or after December 31,~~
11 ~~2008, the Department may adopt rules to provide that, when a~~
12 ~~partnership or Subchapter S corporation has made an error in~~
13 ~~determining the amount of any item of income, deduction,~~
14 ~~addition, subtraction, or credit required to be reported on its~~
15 ~~return that affects the liability imposed under this Act on a~~
16 ~~partner or shareholder, the partnership or Subchapter S~~
17 ~~corporation may report the changes in liabilities of its~~
18 ~~partners or shareholders and claim a refund of the resulting~~
19 ~~overpayments, or pay the resulting underpayments, on behalf of~~
20 ~~its partners and shareholders.~~

21 (g) The Department may adopt rules to authorize the
22 electronic filing of any return required to be filed under this
23 Section.

24 (Source: P.A. 94-1074, eff. 12-26-06; 09500SB1544enr.)

25 (35 ILCS 5/711) (from Ch. 120, par. 7-711)

1 Sec. 711. Payor's Return and Payment of Tax Withheld. (a)
2 In general. Every payor required to deduct and withhold tax
3 under Section 710 (and until January 1, 1989, Sections 708 and
4 709) shall be subject to the same reporting requirements
5 regarding taxes withheld and the same monthly and quarter
6 monthly (weekly) payment requirements as an employer subject to
7 the provisions of Section 701. For purposes of monthly and
8 quarter monthly (weekly) payments, the total tax withheld under
9 Sections 701, 708, 709 and 710 shall be considered in the
10 aggregate.

11 ~~(a-5) Every partnership, Subchapter S corporation, or~~
12 ~~trust required to withhold tax under Section 709.5 shall report~~
13 ~~the amounts withheld and the partners, shareholders, or~~
14 ~~beneficiaries from whom the amounts were withheld, and pay over~~
15 ~~the amount withheld, no later than the due date (without regard~~
16 ~~to extensions) of the tax return of the partnership, Subchapter~~
17 ~~S corporation, or trust for the taxable year.~~

18 (b) Information statement. Every payor required to deduct
19 and withhold tax under Section 710 (and until January 1, 1989,
20 Sections 708 and 709) shall furnish in duplicate to each party
21 entitled to the credit for such withholding under subsection
22 ~~(b) of Section 709.5~~ (c) of Section 708, subsection (c) of
23 Section 709, and subsection (b) of Section 710, respectively,
24 on or before January 31 of the succeeding calendar year ~~for~~
25 ~~amounts withheld under Section 710 or the due date (without~~
26 ~~regard to extensions) of the return of the partnership,~~

1 ~~Subchapter S corporation, or trust for the taxable year for~~
2 ~~amounts withheld under Section 709.5 for the taxable year, a~~
3 written statement in such form as the Department may by
4 regulation prescribe showing the amount of the payments, the
5 amount deducted and withheld as tax, and such other information
6 as the Department may prescribe. A copy of such statement shall
7 be filed by the party entitled to the credit for the
8 withholding under subsection ~~(b) of Section 709.5~~ (c) of
9 Section 708, subsection (c) of Section 709, or subsection (b)
10 of Section 710 with his return for the taxable year to which it
11 relates.

12 (Source: P.A. 85-299; 85-982; 09500SB1544enr.)

13 (35 ILCS 5/712) (from Ch. 120, par. 7-712)

14 Sec. 712. Payor's Liability For Withheld Taxes. Every payor
15 who deducts and withholds or is required to deduct and withhold
16 tax under ~~Sections 709.5 or Section 710~~ (and until January 1,
17 1989, Sections 708 and 709) is liable for such tax. For
18 purposes of assessment and collection, any amount withheld or
19 required to be withheld and paid over to the Department, and
20 any penalties and interest with respect thereto, shall be
21 considered the tax of the payor. Any amount of tax actually
22 deducted and withheld under ~~Sections 709.5 or Section 710~~ (and
23 until January 1, 1989, Sections 708 and 709) shall be held to
24 be a special fund in trust for the Department. No payee shall
25 have any right of action against his payor in respect of any

1 money deducted and withheld and paid over to the Department in
2 compliance or in intended compliance with ~~Sections 709.5 or~~
3 Section 710 (and until January 1, 1989, Sections 708 and 709).
4 (Source: P.A. 85-299; 85-982; 09500SB1544enr.)

5 (35 ILCS 5/713) (from Ch. 120, par. 7-713)

6 Sec. 713. Payor's Failure To Withhold. If a payor fails to
7 deduct and withhold any amount of tax as required under
8 ~~Sections 709.5 or~~ Section 710 (and until January 1, 1989,
9 Sections 708 and 709) and thereafter the tax on account of
10 which such amount was required to be deducted and withheld is
11 paid, such amount of tax shall not be collected from the payor,
12 but the payor shall not be relieved from liability for
13 penalties or interest otherwise applicable in respect of such
14 failure to deduct and withhold. For purposes of this Section,
15 the tax on account of which an amount is required to be
16 deducted and withheld is the tax of the individual or
17 individuals who are entitled to a credit under subsection ~~(b)~~
18 ~~of Section 709.5~~ (c) of Section 708, subsection (c) of Section
19 709, or subsection (b) of Section 710 for the withheld tax.

20 (Source: P.A. 85-299; 85-982; 09500SB1544enr.)

21 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

22 Sec. 804. Failure to Pay Estimated Tax.

23 (a) In general. In case of any underpayment of estimated
24 tax by a taxpayer, except as provided in subsection (d) or (e),

1 the taxpayer shall be liable to a penalty in an amount
2 determined at the rate prescribed by Section 3-3 of the Uniform
3 Penalty and Interest Act upon the amount of the underpayment
4 (determined under subsection (b)) for each required
5 installment.

6 (b) Amount of underpayment. For purposes of subsection (a),
7 the amount of the underpayment shall be the excess of:

8 (1) the amount of the installment which would be
9 required to be paid under subsection (c), over

10 (2) the amount, if any, of the installment paid on or
11 before the last date prescribed for payment.

12 (c) Amount of Required Installments.

13 (1) Amount.

14 (A) In General. Except as provided in paragraph
15 (2), the amount of any required installment shall be
16 25% of the required annual payment.

17 (B) Required Annual Payment. For purposes of
18 subparagraph (A), the term "required annual payment"
19 means the lesser of

20 (i) 90% of the tax shown on the return for the
21 taxable year, or if no return is filed, 90% of the
22 tax for such year, or

23 (ii) 100% of the tax shown on the return of the
24 taxpayer for the preceding taxable year if a return
25 showing a liability for tax was filed by the
26 taxpayer for the preceding taxable year and such

1 preceding year was a taxable year of 12 months.

2 (2) Lower Required Installment where Annualized Income
3 Installment is Less Than Amount Determined Under Paragraph
4 (1).

5 (A) In General. In the case of any required
6 installment if a taxpayer establishes that the
7 annualized income installment is less than the amount
8 determined under paragraph (1),

9 (i) the amount of such required installment
10 shall be the annualized income installment, and

11 (ii) any reduction in a required installment
12 resulting from the application of this
13 subparagraph shall be recaptured by increasing the
14 amount of the next required installment determined
15 under paragraph (1) by the amount of such
16 reduction, and by increasing subsequent required
17 installments to the extent that the reduction has
18 not previously been recaptured under this clause.

19 (B) Determination of Annualized Income
20 Installment. In the case of any required installment,
21 the annualized income installment is the excess, if
22 any, of

23 (i) an amount equal to the applicable
24 percentage of the tax for the taxable year computed
25 by placing on an annualized basis the net income
26 for months in the taxable year ending before the

1 due date for the installment, over

2 (ii) the aggregate amount of any prior
3 required installments for the taxable year.

4 (C) Applicable Percentage.

5 In the case of the following The applicable
6 required installments: percentage is:

7	1st.....	22.5%
8	2nd.....	45%
9	3rd.....	67.5%
10	4th.....	90%

11 (D) Annualized Net Income; Individuals. For
12 individuals, net income shall be placed on an
13 annualized basis by:

14 (i) multiplying by 12, or in the case of a
15 taxable year of less than 12 months, by the number
16 of months in the taxable year, the net income
17 computed without regard to the standard exemption
18 for the months in the taxable year ending before
19 the month in which the installment is required to
20 be paid;

21 (ii) dividing the resulting amount by the
22 number of months in the taxable year ending before
23 the month in which such installment date falls; and

24 (iii) deducting from such amount the standard
25 exemption allowable for the taxable year, such
26 standard exemption being determined as of the last

1 date prescribed for payment of the installment.

2 (E) Annualized Net Income; Corporations. For
3 corporations, net income shall be placed on an
4 annualized basis by multiplying by 12 the taxable
5 income

6 (i) for the first 3 months of the taxable year,
7 in the case of the installment required to be paid
8 in the 4th month,

9 (ii) for the first 3 months or for the first 5
10 months of the taxable year, in the case of the
11 installment required to be paid in the 6th month,

12 (iii) for the first 6 months or for the first 8
13 months of the taxable year, in the case of the
14 installment required to be paid in the 9th month,
15 and

16 (iv) for the first 9 months or for the first 11
17 months of the taxable year, in the case of the
18 installment required to be paid in the 12th month
19 of the taxable year,

20 then dividing the resulting amount by the number of
21 months in the taxable year (3, 5, 6, 8, 9, or 11 as the
22 case may be).

23 (d) Exceptions. Notwithstanding the provisions of the
24 preceding subsections, the penalty imposed by subsection (a)
25 shall not be imposed if the taxpayer was not required to file
26 an Illinois income tax return for the preceding taxable year,

1 or, for individuals, if the taxpayer had no tax liability for
2 the preceding taxable year and such year was a taxable year of
3 12 months. The penalty imposed by subsection (a) shall also not
4 be imposed on any underpayments of estimated tax due before the
5 effective date of this amendatory Act of 1998 which
6 underpayments are solely attributable to the change in
7 apportionment from subsection (a) to subsection (h) of Section
8 304. The provisions of this amendatory Act of 1998 apply to tax
9 years ending on or after December 31, 1998.

10 (e) The penalty imposed for underpayment of estimated tax
11 by subsection (a) of this Section shall not be imposed to the
12 extent that the ~~Director~~ Department or his ~~or her~~ designate
13 determines, pursuant to Section 3-8 of the Uniform Penalty and
14 Interest Act that the penalty should not be imposed.

15 (f) Definition of tax. For purposes of subsections (b) and
16 (c), the term "tax" means the excess of the tax imposed under
17 Article 2 of this Act, over the amounts credited against such
18 tax under Sections 601(b) (3) and (4).

19 (g) Application of Section in case of tax withheld ~~under~~
20 ~~Article 7~~ on compensation. For purposes of applying this
21 Section:

22 ~~(1)~~ in the case of an individual, tax withheld ~~from~~
23 ~~compensation~~ under Article 7 for the taxable year shall be
24 deemed a payment of estimated tax, and an equal part of
25 such amount shall be deemed paid on each installment date
26 for such taxable year, unless the taxpayer establishes the

1 dates on which all amounts were actually withheld, in which
2 case the amounts so withheld shall be deemed payments of
3 estimated tax on the dates on which such amounts were
4 actually withheld. .

5 ~~(2) amounts timely paid by a partnership, Subchapter S~~
6 ~~corporation, or trust on behalf of a partner, shareholder,~~
7 ~~or beneficiary pursuant to subsection (f) of Section 502 or~~
8 ~~Section 709.5 and claimed as a payment of estimated tax~~
9 ~~shall be deemed a payment of estimated tax made on the last~~
10 ~~day of the taxable year of the partnership, Subchapter S~~
11 ~~corporation, or trust for which the income from the~~
12 ~~withholding is made was computed; and~~

13 ~~(3) all other amounts pursuant to Article 7 shall be~~
14 ~~deemed a payment of estimated tax on the date the payment~~
15 ~~is made to the taxpayer of the amount from which the tax is~~
16 ~~withheld.~~

17 (g-5) Amounts withheld under the State Salary and Annuity
18 Withholding Act. An individual who has amounts withheld under
19 paragraph (10) of Section 4 of the State Salary and Annuity
20 Withholding Act may elect to have those amounts treated as
21 payments of estimated tax made on the dates on which those
22 amounts are actually withheld.

23 (i) Short taxable year. The application of this Section to
24 taxable years of less than 12 months shall be in accordance
25 with regulations prescribed by the Department.

26 The changes in this Section made by Public Act 84-127 shall

1 apply to taxable years ending on or after January 1, 1986.

2 (Source: P.A. 90-448, eff. 8-16-97; 90-613, eff. 7-9-98;
3 09500SB1544enr.)

4 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

5 Sec. 911. Limitations on Claims for Refund.

6 (a) In general. Except as otherwise provided in this Act:

7 (1) A claim for refund shall be filed not later than 3
8 years after the date the return was filed (in the case of
9 returns required under Article 7 of this Act respecting any
10 amounts withheld as tax, not later than 3 years after the
11 15th day of the 4th month following the close of the
12 calendar year in which such withholding was made), or one
13 year after the date the tax was paid, whichever is the
14 later; and

15 (2) No credit or refund shall be allowed or made with
16 respect to the year for which the claim was filed unless
17 such claim is filed within such period.

18 (b) Federal changes.

19 (1) In general. In any case where notification of an
20 alteration is required by Section 506(b), a claim for
21 refund may be filed within 2 years after the date on which
22 such notification was due (regardless of whether such
23 notice was given), but the amount recoverable pursuant to a
24 claim filed under this Section shall be limited to the
25 amount of any overpayment resulting under this Act from

1 recomputation of the taxpayer's net income, net loss, or
2 Article 2 credits for the taxable year after giving effect
3 to the item or items reflected in the alteration required
4 to be reported.

5 (2) Tentative carryback adjustments paid before
6 January 1, 1974. If, as the result of the payment before
7 January 1, 1974 of a federal tentative carryback
8 adjustment, a notification of an alteration is required
9 under Section 506(b), a claim for refund may be filed at
10 any time before January 1, 1976, but the amount recoverable
11 pursuant to a claim filed under this Section shall be
12 limited to the amount of any overpayment resulting under
13 this Act from recomputation of the taxpayer's base income
14 for the taxable year after giving effect to the federal
15 alteration resulting from the tentative carryback
16 adjustment irrespective of any limitation imposed in
17 paragraph (1) of this subsection.

18 (c) Extension by agreement. Where, before the expiration of
19 the time prescribed in this section for the filing of a claim
20 for refund, both the Department and the claimant shall have
21 consented in writing to its filing after such time, such claim
22 may be filed at any time prior to the expiration of the period
23 agreed upon. The period so agreed upon may be extended by
24 subsequent agreements in writing made before the expiration of
25 the period previously agreed upon. In the case of a taxpayer
26 who is a partnership, Subchapter S corporation, or trust and

1 who enters into an agreement with the Department pursuant to
2 this subsection on or after January 1, 2003, a claim for refund
3 may be issued to the partners, shareholders, or beneficiaries
4 of the taxpayer at any time prior to the expiration of the
5 period agreed upon. Any refund allowed pursuant to the claim,
6 however, shall be limited to the amount of any overpayment of
7 tax due under this Act that results from recomputation of items
8 of income, deduction, credits, or other amounts of the taxpayer
9 that are taken into account by the partner, shareholder, or
10 beneficiary in computing its liability under this Act.

11 (d) Limit on amount of credit or refund.

12 (1) Limit where claim filed within 3-year period. If
13 the claim was filed by the claimant during the 3-year
14 period prescribed in subsection (a), the amount of the
15 credit or refund shall not exceed the portion of the tax
16 paid within the period, immediately preceding the filing of
17 the claim, equal to 3 years plus the period of any
18 extension of time for filing the return.

19 (2) Limit where claim not filed within 3-year period.
20 If the claim was not filed within such 3-year period, the
21 amount of the credit or refund shall not exceed the portion
22 of the tax paid during the one year immediately preceding
23 the filing of the claim.

24 (e) Time return deemed filed. For purposes of this section
25 a tax return filed before the last day prescribed by law for
26 the filing of such return (including any extensions thereof)

1 shall be deemed to have been filed on such last day.

2 (f) No claim for refund based on the taxpayer's taking a
3 credit for estimated tax payments as provided by Section
4 601(b)(2) or for any amount paid by a taxpayer pursuant to
5 Section 602(a) or for any amount of credit for tax withheld
6 pursuant to ~~Article 7~~ Section 701 may be filed more than 3
7 years after the due date, as provided by Section 505, of the
8 return which was required to be filed relative to the taxable
9 year for which the payments were made or for which the tax was
10 withheld. The changes in this subsection (f) made by this
11 amendatory Act of 1987 shall apply to all taxable years ending
12 on or after December 31, 1969.

13 (g) Special Period of Limitation with Respect to Net Loss
14 Carrybacks. If the claim for refund relates to an overpayment
15 attributable to a net loss carryback as provided by Section
16 207, in lieu of the 3 year period of limitation prescribed in
17 subsection (a), the period shall be that period which ends 3
18 years after the time prescribed by law for filing the return
19 (including extensions thereof) for the taxable year of the net
20 loss which results in such carryback (or, on and after August
21 13, 1999, with respect to a change in the carryover of an
22 Article 2 credit to a taxable year resulting from the carryback
23 of a Section 207 loss incurred in a taxable year beginning on
24 or after January 1, 2000, the period shall be that period that
25 ends 3 years after the time prescribed by law for filing the
26 return (including extensions of that time) for that subsequent

1 taxable year), or the period prescribed in subsection (c) in
2 respect of such taxable year, whichever expires later. In the
3 case of such a claim, the amount of the refund may exceed the
4 portion of the tax paid within the period provided in
5 subsection (d) to the extent of the amount of the overpayment
6 attributable to such carryback. On and after August 13, 1999,
7 if the claim for refund relates to an overpayment attributable
8 to the carryover of an Article 2 credit, or of a Section 207
9 loss, earned, incurred (in a taxable year beginning on or after
10 January 1, 2000), or used in a year for which a notification of
11 a change affecting federal taxable income must be filed under
12 subsection (b) of Section 506, the claim may be filed within
13 the period prescribed in paragraph (1) of subsection (b) in
14 respect of the year for which the notification is required. In
15 the case of such a claim, the amount of the refund may exceed
16 the portion of the tax paid within the period provided in
17 subsection (d) to the extent of the amount of the overpayment
18 attributable to the recomputation of the taxpayer's Article 2
19 credits, or Section 207 loss, earned, incurred, or used in the
20 taxable year for which the notification is given.

21 (h) Claim for refund based on net loss. On and after August
22 23, 2002, no claim for refund shall be allowed to the extent
23 the refund is the result of an amount of net loss incurred in
24 any taxable year ending prior to December 31, 2002 under
25 Section 207 of this Act that was not reported to the Department
26 within 3 years of the due date (including extensions) of the

1 return for the loss year on either the original return filed by
2 the taxpayer or on amended return or to the extent that the
3 refund is the result of an amount of net loss incurred in any
4 taxable year under Section 207 for which no return was filed
5 within 3 years of the due date (including extensions) of the
6 return for the loss year.

7 (Source: P.A. 94-836, eff. 6-6-06; 09500SB1544enr.)

8 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

9 Sec. 1501. Definitions.

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

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

23 ~~(1.5) Captive real estate investment trust:~~

24 ~~(A) The term "captive real estate investment trust"~~
25 ~~means a corporation, trust, or association:~~

1 ~~(i) that is considered a real estate investment~~
2 ~~trust for the taxable year under Section 856 of the~~
3 ~~Internal Revenue Code;~~

4 ~~(ii) that is not regularly traded on an established~~
5 ~~securities market; and~~

6 ~~(iii) of which more than 50% of the voting power or~~
7 ~~value of the beneficial interest or shares, at any time~~
8 ~~during the last half of the taxable year, is owned or~~
9 ~~controlled, directly or indirectly, by a single entity~~
10 ~~that is subject to the provisions of Subchapter C of~~
11 ~~Chapter 1 of the Internal Revenue Code.~~

12 ~~(B) The term "captive real estate investment trust"~~
13 ~~does not include:~~

14 ~~(i) a corporation, trust, or association of which~~
15 ~~more than 50% of the voting power or value of the~~
16 ~~beneficial interest or shares is owned or controlled,~~
17 ~~at any time during which the corporation, trust, or~~
18 ~~association satisfies item (A) (iii) of this subsection~~
19 ~~(1.5), by:~~

20 ~~(a) a real estate investment trust, other than~~
21 ~~a real estate investment trust described in item~~
22 ~~(A) of this subsection;~~

23 ~~(b) a person who is exempt from taxation under~~
24 ~~Section 501 of the Internal Revenue Code;~~

25 ~~(c) a listed Australian property trust; or~~

26 ~~(d) a real estate investment trust that,~~

1 ~~subject to rules of the Secretary of State, is~~
2 ~~intended to become regularly traded on an~~
3 ~~established securities market and that satisfies~~
4 ~~the requirements of Sections 856(A) (5) and~~
5 ~~856(A) (6) of the Internal Revenue Code by reason of~~
6 ~~Section 856(H) (2) of the Internal Revenue Code.~~

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

13 (2) Commercial domicile. The term "commercial
14 domicile" means the principal place from which the trade or
15 business of the taxpayer is directed or managed.

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

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

25 (5) Department. The term "Department" means the
26 Department of Revenue of this State.

1 (6) Director. The term "Director" means the Director of
2 Revenue of this State.

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

6 (8) Financial organization.

7 (A) The term "financial organization" means any
8 bank, bank holding company, trust company, savings
9 bank, industrial bank, land bank, safe deposit
10 company, private banker, savings and loan association,
11 building and loan association, credit union, currency
12 exchange, cooperative bank, small loan company, sales
13 finance company, investment company, or any person
14 which is owned by a bank or bank holding company. For
15 the purpose of this Section a "person" will include
16 only those persons which a bank holding company may
17 acquire and hold an interest in, directly or
18 indirectly, under the provisions of the Bank Holding
19 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
20 where interests in any person must be disposed of
21 within certain required time limits under the Bank
22 Holding Company Act of 1956.

23 (B) For purposes of subparagraph (A) of this
24 paragraph, the term "bank" includes (i) any entity that
25 is regulated by the Comptroller of the Currency under
26 the National Bank Act, or by the Federal Reserve Board,

1 or by the Federal Deposit Insurance Corporation and
2 (ii) any federally or State chartered bank operating as
3 a credit card bank.

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

7 (i) A person primarily engaged in one or more
8 of the following businesses: the business of
9 purchasing customer receivables, the business of
10 making loans upon the security of customer
11 receivables, the business of making loans for the
12 express purpose of funding purchases of tangible
13 personal property or services by the borrower, or
14 the business of finance leasing. For purposes of
15 this item (i), "customer receivable" means:

16 (a) a retail installment contract or
17 retail charge agreement within the meaning of
18 the Sales Finance Agency Act, the Retail
19 Installment Sales Act, or the Motor Vehicle
20 Retail Installment Sales Act;

21 (b) an installment, charge, credit, or
22 similar contract or agreement arising from the
23 sale of tangible personal property or services
24 in a transaction involving a deferred payment
25 price payable in one or more installments
26 subsequent to the sale; or

1 (c) the outstanding balance of a contract
2 or agreement described in provisions (a) or (b)
3 of this item (i).

4 A customer receivable need not provide for
5 payment of interest on deferred payments. A sales
6 finance company may purchase a customer receivable
7 from, or make a loan secured by a customer
8 receivable to, the seller in the original
9 transaction or to a person who purchased the
10 customer receivable directly or indirectly from
11 that seller.

12 (ii) A corporation meeting each of the
13 following criteria:

14 (a) the corporation must be a member of an
15 "affiliated group" within the meaning of
16 Section 1504(a) of the Internal Revenue Code,
17 determined without regard to Section 1504(b)
18 of the Internal Revenue Code;

19 (b) more than 50% of the gross income of
20 the corporation for the taxable year must be
21 interest income derived from qualifying loans.
22 A "qualifying loan" is a loan made to a member
23 of the corporation's affiliated group that
24 originates customer receivables (within the
25 meaning of item (i)) or to whom customer
26 receivables originated by a member of the

1 affiliated group have been transferred, to the
2 extent the average outstanding balance of
3 loans from that corporation to members of its
4 affiliated group during the taxable year do not
5 exceed the limitation amount for that
6 corporation. The "limitation amount" for a
7 corporation is the average outstanding
8 balances during the taxable year of customer
9 receivables (within the meaning of item (i))
10 originated by all members of the affiliated
11 group. If the average outstanding balances of
12 the loans made by a corporation to members of
13 its affiliated group exceed the limitation
14 amount, the interest income of that
15 corporation from qualifying loans shall be
16 equal to its interest income from loans to
17 members of its affiliated groups times a
18 fraction equal to the limitation amount
19 divided by the average outstanding balances of
20 the loans made by that corporation to members
21 of its affiliated group;

22 (c) the total of all shareholder's equity
23 (including, without limitation, paid-in
24 capital on common and preferred stock and
25 retained earnings) of the corporation plus the
26 total of all of its loans, advances, and other

1 obligations payable or owed to members of its
2 affiliated group may not exceed 20% of the
3 total assets of the corporation at any time
4 during the tax year; and

5 (d) more than 50% of all interest-bearing
6 obligations of the affiliated group payable to
7 persons outside the group determined in
8 accordance with generally accepted accounting
9 principles must be obligations of the
10 corporation.

11 This amendatory Act of the 91st General Assembly is
12 declaratory of existing law.

13 (D) Subparagraphs (B) and (C) of this paragraph are
14 declaratory of existing law and apply retroactively,
15 for all tax years beginning on or before December 31,
16 1996, to all original returns, to all amended returns
17 filed no later than 30 days after the effective date of
18 this amendatory Act of 1996, and to all notices issued
19 on or before the effective date of this amendatory Act
20 of 1996 under subsection (a) of Section 903, subsection
21 (a) of Section 904, subsection (e) of Section 909, or
22 Section 912. A taxpayer that is a "financial
23 organization" that engages in any transaction with an
24 affiliate shall be a "financial organization" for all
25 purposes of this Act.

26 (E) For all tax years beginning on or before

1 December 31, 1996, a taxpayer that falls within the
2 definition of a "financial organization" under
3 subparagraphs (B) or (C) of this paragraph, but who
4 does not fall within the definition of a "financial
5 organization" under the Proposed Regulations issued by
6 the Department of Revenue on July 19, 1996, may
7 irrevocably elect to apply the Proposed Regulations
8 for all of those years as though the Proposed
9 Regulations had been lawfully promulgated, adopted,
10 and in effect for all of those years. For purposes of
11 applying subparagraphs (B) or (C) of this paragraph to
12 all of those years, the election allowed by this
13 subparagraph applies only to the taxpayer making the
14 election and to those members of the taxpayer's unitary
15 business group who are ordinarily required to
16 apportion business income under the same subsection of
17 Section 304 of this Act as the taxpayer making the
18 election. No election allowed by this subparagraph
19 shall be made under a claim filed under subsection (d)
20 of Section 909 more than 30 days after the effective
21 date of this amendatory Act of 1996.

22 (F) Finance Leases. For purposes of this
23 subsection, a finance lease shall be treated as a loan
24 or other extension of credit, rather than as a lease,
25 regardless of how the transaction is characterized for
26 any other purpose, including the purposes of any

1 regulatory agency to which the lessor is subject. A
2 finance lease is any transaction in the form of a lease
3 in which the lessee is treated as the owner of the
4 leased asset entitled to any deduction for
5 depreciation allowed under Section 167 of the Internal
6 Revenue Code.

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

10 (10) Includes and including. The terms "includes" and
11 "including" when used in a definition contained in this Act
12 shall not be deemed to exclude other things otherwise
13 within the meaning of the term defined.

14 (11) Internal Revenue Code. The term "Internal Revenue
15 Code" means the United States Internal Revenue Code of 1954
16 or any successor law or laws relating to federal income
17 taxes in effect for the taxable year.

18 (11.5) Investment partnership.

19 (A) The term "investment partnership" means any
20 entity that is treated as a partnership for federal
21 income tax purposes that meets the following
22 requirements:

23 (i) no less than 90% of the partnership's cost
24 of its total assets consists of qualifying
25 investment securities, deposits at banks or other
26 financial institutions, and office space and

1 equipment reasonably necessary to carry on its
2 activities as an investment partnership;

3 (ii) no less than 90% of its gross income
4 consists of interest, dividends, and gains from
5 the sale or exchange of qualifying investment
6 securities; and

7 (iii) the partnership is not a dealer in
8 qualifying investment securities.

9 (B) For purposes of this paragraph (11.5), the term
10 "qualifying investment securities" includes all of the
11 following:

12 (i) common stock, including preferred or debt
13 securities convertible into common stock, and
14 preferred stock;

15 (ii) bonds, debentures, and other debt
16 securities;

17 (iii) foreign and domestic currency deposits
18 secured by federal, state, or local governmental
19 agencies;

20 (iv) mortgage or asset-backed securities
21 secured by federal, state, or local governmental
22 agencies;

23 (v) repurchase agreements and loan
24 participations;

25 (vi) foreign currency exchange contracts and
26 forward and futures contracts on foreign

1 currencies;

2 (vii) stock and bond index securities and
3 futures contracts and other similar financial
4 securities and futures contracts on those
5 securities;

6 (viii) options for the purchase or sale of any
7 of the securities, currencies, contracts, or
8 financial instruments described in items (i) to
9 (vii), inclusive;

10 (ix) regulated futures contracts;

11 (x) commodities (not described in Section
12 1221(a)(1) of the Internal Revenue Code) or
13 futures, forwards, and options with respect to
14 such commodities, provided, however, that any item
15 of a physical commodity to which title is actually
16 acquired in the partnership's capacity as a dealer
17 in such commodity shall not be a qualifying
18 investment security;

19 (xi) derivatives; and

20 (xii) a partnership interest in another
21 partnership that is an investment partnership.

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

26 (A) arithmetic errors or incorrect computations on

1 the return or supporting schedules;

2 (B) entries on the wrong lines;

3 (C) omission of required supporting forms or
4 schedules or the omission of the information in whole
5 or in part called for thereon; and

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

10 (13) Nonbusiness income. The term "nonbusiness income"
11 means all income other than business income or
12 compensation.

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

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

19 (16) Partnership and partner. The term "partnership"
20 includes a syndicate, group, pool, joint venture or other
21 unincorporated organization, through or by means of which
22 any business, financial operation, or venture is carried
23 on, and which is not, within the meaning of this Act, a
24 trust or estate or a corporation; and the term "partner"
25 includes a member in such syndicate, group, pool, joint
26 venture or organization.

1 The term "partnership" includes any entity, including
2 a limited liability company formed under the Illinois
3 Limited Liability Company Act, classified as a partnership
4 for federal income tax purposes.

5 The term "partnership" does not include a syndicate,
6 group, pool, joint venture, or other unincorporated
7 organization established for the sole purpose of playing
8 the Illinois State Lottery.

9 (17) Part-year resident. The term "part-year resident"
10 means an individual who became a resident during the
11 taxable year or ceased to be a resident during the taxable
12 year. Under Section 1501(a)(20)(A)(i) residence commences
13 with presence in this State for other than a temporary or
14 transitory purpose and ceases with absence from this State
15 for other than a temporary or transitory purpose. Under
16 Section 1501(a)(20)(A)(ii) residence commences with the
17 establishment of domicile in this State and ceases with the
18 establishment of domicile in another State.

19 (18) Person. The term "person" shall be construed to
20 mean and include an individual, a trust, estate,
21 partnership, association, firm, company, corporation,
22 limited liability company, or fiduciary. For purposes of
23 Section 1301 and 1302 of this Act, a "person" means (i) an
24 individual, (ii) a corporation, (iii) an officer, agent, or
25 employee of a corporation, (iv) a member, agent or employee
26 of a partnership, or (v) a member, manager, employee,

1 officer, director, or agent of a limited liability company
2 who in such capacity commits an offense specified in
3 Section 1301 and 1302.

4 (18A) Records. The term "records" includes all data
5 maintained by the taxpayer, whether on paper, microfilm,
6 microfiche, or any type of machine-sensible data
7 compilation.

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

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

11 (A) an individual (i) who is in this State for
12 other than a temporary or transitory purpose during the
13 taxable year; or (ii) who is domiciled in this State
14 but is absent from the State for a temporary or
15 transitory purpose during the taxable year;

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

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

20 (D) An irrevocable trust, the grantor of which was
21 domiciled in this State at the time such trust became
22 irrevocable. For purpose of this subparagraph, a trust
23 shall be considered irrevocable to the extent that the
24 grantor is not treated as the owner thereof under
25 Sections 671 through 678 of the Internal Revenue Code.

26 (21) Sales. The term "sales" means all gross receipts

1 of the taxpayer not allocated under Sections 301, 302 and
2 303.

3 (22) State. The term "state" when applied to a
4 jurisdiction other than this State means any state of the
5 United States, the District of Columbia, the Commonwealth
6 of Puerto Rico, any Territory or Possession of the United
7 States, and any foreign country, or any political
8 subdivision of any of the foregoing. For purposes of the
9 foreign tax credit under Section 601, the term "state"
10 means any state of the United States, the District of
11 Columbia, the Commonwealth of Puerto Rico, and any
12 territory or possession of the United States, or any
13 political subdivision of any of the foregoing, effective
14 for tax years ending on or after December 31, 1989.

15 (23) Taxable year. The term "taxable year" means the
16 calendar year, or the fiscal year ending during such
17 calendar year, upon the basis of which the base income is
18 computed under this Act. "Taxable year" means, in the case
19 of a return made for a fractional part of a year under the
20 provisions of this Act, the period for which such return is
21 made.

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

24 (25) International banking facility. The term
25 international banking facility shall have the same meaning
26 as is set forth in the Illinois Banking Act or as is set

1 forth in the laws of the United States or regulations of
2 the Board of Governors of the Federal Reserve System.

3 (26) Income Tax Return Preparer.

4 (A) The term "income tax return preparer" means any
5 person who prepares for compensation, or who employs
6 one or more persons to prepare for compensation, any
7 return of tax imposed by this Act or any claim for
8 refund of tax imposed by this Act. The preparation of a
9 substantial portion of a return or claim for refund
10 shall be treated as the preparation of that return or
11 claim for refund.

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

14 (i) furnish typing, reproducing, or other
15 mechanical assistance;

16 (ii) prepare returns or claims for refunds for
17 the employer by whom he or she is regularly and
18 continuously employed;

19 (iii) prepare as a fiduciary returns or claims
20 for refunds for any person; or

21 (iv) prepare claims for refunds for a taxpayer
22 in response to any notice of deficiency issued to
23 that taxpayer or in response to any waiver of
24 restriction after the commencement of an audit of
25 that taxpayer or of another taxpayer if a
26 determination in the audit of the other taxpayer

1 directly or indirectly affects the tax liability
2 of the taxpayer whose claims he or she is
3 preparing.

4 (27) Unitary business group. The term "unitary
5 business group" means a group of persons related through
6 common ownership whose business activities are integrated
7 with, dependent upon and contribute to each other. The
8 group will not include those members whose business
9 activity outside the United States is 80% or more of any
10 such member's total business activity; for purposes of this
11 paragraph and clause (a)(3)(B)(ii) of Section 304,
12 business activity within the United States shall be
13 measured by means of the factors ordinarily applicable
14 under subsections (a), (b), (c), (d), or (h) of Section 304
15 except that, in the case of members ordinarily required to
16 apportion business income by means of the 3 factor formula
17 of property, payroll and sales specified in subsection (a)
18 of Section 304, including the formula as weighted in
19 subsection (h) of Section 304, such members shall not use
20 the sales factor in the computation and the results of the
21 property and payroll factor computations of subsection (a)
22 of Section 304 shall be divided by 2 (by one if either the
23 property or payroll factor has a denominator of zero). The
24 computation required by the preceding sentence shall, in
25 each case, involve the division of the member's property,
26 payroll, or revenue miles in the United States, insurance

1 premiums on property or risk in the United States, or
2 financial organization business income from sources within
3 the United States, as the case may be, by the respective
4 worldwide figures for such items. Common ownership in the
5 case of corporations is the direct or indirect control or
6 ownership of more than 50% of the outstanding voting stock
7 of the persons carrying on unitary business activity.
8 Unitary business activity can ordinarily be illustrated
9 where the activities of the members are: (1) in the same
10 general line (such as manufacturing, wholesaling,
11 retailing of tangible personal property, insurance,
12 transportation or finance); or (2) are steps in a
13 vertically structured enterprise or process (such as the
14 steps involved in the production of natural resources,
15 which might include exploration, mining, refining, and
16 marketing); and, in either instance, the members are
17 functionally integrated through the exercise of strong
18 centralized management (where, for example, authority over
19 such matters as purchasing, financing, tax compliance,
20 product line, personnel, marketing and capital investment
21 is not left to each member). In no event, however, will any
22 unitary business group include members which are
23 ordinarily required to apportion business income under
24 different subsections of Section 304 except that for tax
25 years ending on or after December 31, 1987 this prohibition
26 shall not apply to a unitary business group composed of one

1 or more taxpayers all of which apportion business income
2 pursuant to subsection (b) of Section 304, or all of which
3 apportion business income pursuant to subsection (d) of
4 Section 304, and a holding company of such single-factor
5 taxpayers (see definition of "financial organization" for
6 rule regarding holding companies of financial
7 organizations). If a unitary business group would, but for
8 the preceding sentence, include members that are
9 ordinarily required to apportion business income under
10 different subsections of Section 304, then for each
11 subsection of Section 304 for which there are two or more
12 members, there shall be a separate unitary business group
13 composed of such members. For purposes of the preceding two
14 sentences, a member is "ordinarily required to apportion
15 business income" under a particular subsection of Section
16 304 if it would be required to use the apportionment method
17 prescribed by such subsection except for the fact that it
18 derives business income solely from Illinois. As used in
19 this paragraph, the phrase "United States" means only the
20 50 states and the District of Columbia, but does not
21 include any territory or possession of the United States or
22 any area over which the United States has asserted
23 jurisdiction or claimed exclusive rights with respect to
24 the exploration for or exploitation of natural resources.

25 If the unitary business group members' accounting
26 periods differ, the common parent's accounting period or,

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

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

20 (30) Foreign person. The term "foreign person" means
21 any person who is a nonresident alien individual and any
22 nonindividual entity, regardless of where created or
23 organized, whose business activity outside the United
24 States is 80% or more of the entity's total business
25 activity.

1 (b) Other definitions.

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

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

7 (B) Words importing the plural include the
8 singular; and

9 (C) Words importing the masculine gender include
10 the feminine as well.

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

17 (3) Other terms. Any term used in any Section of this
18 Act with respect to the application of, or in connection
19 with, the provisions of any other Section of this Act shall
20 have the same meaning as in such other Section.

21 (Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04;
22 09500SB1544enr.)

23 (35 ILCS 5/709.5 rep.)

24 Section 10-8. If and only if Senate Bill 1544 of the 95th
25 General Assembly becomes law, then the Illinois Income Tax Act

1 is amended by repealing Section 709.5.

2 Section 10-10. If and only if Senate Bill 1544 of the 95th
3 General Assembly becomes law, then the Retailers' Occupation
4 Tax Act is amended by 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) ~~(Blank)~~. A motor vehicle of the first division, a motor
11 vehicle of the second division that is a self-contained motor
12 vehicle designed or permanently converted to provide living
13 quarters for recreational, camping, or travel use, with direct
14 walk through access to the living quarters from the driver's
15 seat, or a motor vehicle of the second division that is of the
16 van configuration designed for the transportation of not less
17 than 7 nor more than 16 passengers, as defined in Section 1-146
18 of the Illinois Vehicle Code, that is used for automobile
19 renting, as defined in the Automobile Renting Occupation and
20 Use Tax 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 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
14 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;
15 94-1002, eff. 7-3-06; 09500SB1544enr.)

16 ARTICLE 99. EFFECTIVE DATE

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.