



Rep. Barbara Flynn Currie

**Filed: 5/30/2007**

09500SB1544ham001

LRB095 10647 BDD 37280 a

1 AMENDMENT TO SENATE BILL 1544

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1544 by replacing  
3 everything after the enacting clause with the following:

4 "ARTICLE 1. SHORT TITLE; PURPOSE

5 Section 1-1. Short Title. This Act may be cited as the  
6 FY2008 Budget Implementation (Revenue) Act.

7 Section 1-5. Purpose. It is the purpose of this Act to make  
8 changes in State programs concerning revenue that are necessary  
9 to implement the FY2008 Budget.

10 ARTICLE 5. FRANCHISE TAX AND LICENSE FEE AMNESTY ACT OF 2007

11 Section 5-1. Short title. This Article may be cited as the  
12 Franchise Tax and License Fee Amnesty Act of 2007. References  
13 in this Article to "this Act" mean this Article.

1 Section 5-5. Definitions. As used in this Act:

2 "Secretary" means the Illinois Secretary of State.

3 "Rules" means any rules adopted or forms prescribed by the  
4 Secretary.

5 "Taxable period" means any period of time for which any  
6 franchise tax is imposed by and owned to the State of Illinois  
7 by any domestic corporation or any license fee is imposed by  
8 and owned to the State of Illinois by any foreign corporation.

9 "Taxpayer" means any domestic or foreign corporation,  
10 subject to franchise tax or license fee imposed by Article XV  
11 of the Business Corporation Act of 1983.

12 Section 5-10. Amnesty program. The Secretary shall  
13 establish an amnesty program for all taxpayers owing any  
14 franchise tax or license fee imposed by Article XV of the  
15 Business Corporation Act of 1983. The amnesty program shall be  
16 for a period from October 1, 2007 through November 15, 2007.  
17 The amnesty program shall provide that, upon payment by a  
18 taxpayer of all franchise taxes and license fees due from that  
19 taxpayer to the State of Illinois for any taxable period, the  
20 Secretary shall abate and not seek to collect any interest or  
21 penalties that may be applicable, and the Secretary shall not  
22 seek civil or criminal prosecution for any taxpayer for the  
23 period of time for which amnesty has been granted to the  
24 taxpayer. Failure to pay all taxes due to the State for a

1 taxable period shall not invalidate any amnesty granted under  
2 this Act with respect to the taxes paid pursuant to the amnesty  
3 program. Amnesty shall be granted only if all amnesty  
4 conditions are satisfied by the taxpayer. Amnesty shall not be  
5 granted to taxpayers who are a party to any criminal  
6 investigation or to any civil or criminal litigation that is  
7 pending in any circuit court or appellate court or the Supreme  
8 Court of this State for nonpayment, delinquency, or fraud in  
9 relation to any franchise tax or license fee imposed by Article  
10 XV of the Business Corporation Act of 1983. Voluntary payments  
11 made under this Act shall be made by cash, check, guaranteed  
12 remittance, or ACH debit. The Secretary shall adopt rules as  
13 necessary to implement the provisions of this Act. Except as  
14 otherwise provided in this Section, all money collected under  
15 this Act that would otherwise be deposited into the General  
16 Revenue Fund shall be deposited into the General Revenue Fund.  
17 Two percent of all money collected under this Act shall be  
18 deposited by the State Treasurer into the Department of  
19 Business Services Special Operations Fund and, subject to  
20 appropriation, shall be used by the Secretary to cover costs  
21 associated with the administration of this Act.

22 Section 5-90. The Business Corporation Act of 1983 is  
23 amended by changing Sections 15.90 and 16.05 as follows:

24 (805 ILCS 5/15.90) (from Ch. 32, par. 15.90)

1           Sec. 15.90. Statute of limitations.

2           (a) Except as otherwise provided in this Section and  
3 notwithstanding anything to the contrary contained in any other  
4 Section of this Act, no domestic corporation or foreign  
5 corporation shall be obligated to pay any annual franchise tax,  
6 fee, or penalty or interest thereon imposed under this Act, nor  
7 shall any administrative or judicial sanction (including  
8 dissolution) be imposed or enforced nor access to the courts of  
9 this State be denied based upon nonpayment thereof more than 7  
10 years after the date of filing the annual report with respect  
11 to the period during which the obligation for the tax, fee,  
12 penalty or interest arose, unless (1) within that 7 year period  
13 the Secretary of State sends a written notice to the  
14 corporation to the effect that (A) administrative or judicial  
15 action to dissolve the corporation or revoke its certificate of  
16 authority for nonpayment of a tax, fee, penalty or interest has  
17 been commenced; or (B) the corporation has submitted a report  
18 but has failed to pay a tax, fee, penalty or interest required  
19 to be paid therewith; or (C) a report with respect to an event  
20 or action giving rise to an obligation to pay a tax, fee,  
21 penalty or interest is required but has not been filed, or has  
22 been filed and is in error or incomplete; or (2) the annual  
23 report by the corporation was filed with fraudulent intent to  
24 evade taxes payable under this Act. A corporation nonetheless  
25 shall be required to pay all taxes that would have been payable  
26 during the most recent 7 year period due to a previously

1 unreported increase in paid-in capital that occurred prior to  
2 that 7 year period and interest and penalties thereon for that  
3 period, except that with respect to any corporation that  
4 participates in the Franchise Tax and License Fee Amnesty Act  
5 of 2007, the corporation shall be only required to pay all  
6 taxes that would have been payable during the most recent 4  
7 year period due to a previously unreported increase in paid-in  
8 capital that occurred prior to that 7 year period.

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

1 person, corporation, partnership, trust or other entity  
2 together with all other persons controlled by, controlling or  
3 under common control with such person.

4 (c) Except as otherwise provided in this Section and  
5 notwithstanding anything to the contrary contained in any other  
6 Section of this Act, no foreign corporation that has not  
7 previously obtained a certificate of authority under this Act  
8 shall, upon voluntary application for a certificate of  
9 authority filed with the Secretary of State prior to January 1,  
10 2001, be obligated to pay any tax, fee, penalty, or interest  
11 imposed under this Act, nor shall any administrative or  
12 judicial sanction be imposed or enforced based upon nonpayment  
13 thereof with respect to a period during which the obligation  
14 arose that is prior to January 1, 1993 unless (1) prior to  
15 receipt of the application for a certificate of authority the  
16 Secretary of State had sent written notice to the corporation  
17 regarding its failure to obtain a certificate of authority, (2)  
18 the corporation had submitted an application for a certificate  
19 of authority previously but had failed to pay any tax, fee,  
20 penalty or interest to be paid therewith, or (3) the  
21 application for a certificate of authority was submitted by the  
22 corporation with fraudulent intent to evade taxes payable under  
23 this Act. A corporation nonetheless shall be required to pay  
24 all taxes and fees due under this Act that would have been  
25 payable since January 1, 1993 as a result of commencing the  
26 transaction of its business in this State and interest thereon

1 for that period.

2 (Source: P.A. 90-421, eff. 1-1-98.)

3 (805 ILCS 5/16.05) (from Ch. 32, par. 16.05)

4 Sec. 16.05. Penalties and interest imposed upon  
5 corporations.

6 (a) Each corporation, domestic or foreign, that fails or  
7 refuses to file any annual report or report of cumulative  
8 changes in paid-in capital and pay any franchise tax due  
9 pursuant to the report prior to the first day of its  
10 anniversary month or, in the case of a corporation which has  
11 established an extended filing month, the extended filing month  
12 of the corporation shall pay a penalty of 10% of the amount of  
13 any delinquent franchise tax due for the report. No penalty  
14 shall be imposed with respect to any amount of delinquent  
15 franchise tax paid pursuant to the Franchise Tax and License  
16 Fee Amnesty Act of 2007.

17 (b) Each corporation, domestic or foreign, that fails or  
18 refuses to file a report of issuance of shares or increase in  
19 paid-in capital within the time prescribed by this Act is  
20 subject to a penalty on any obligation occurring prior to  
21 January 1, 1991, and interest on those obligations on or after  
22 January 1, 1991, for each calendar month or part of month that  
23 it is delinquent in the amount of 1% of the amount of license  
24 fees and franchise taxes provided by this Act to be paid on  
25 account of the issuance of shares or increase in paid-in

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

5 (c) Each corporation, domestic or foreign, that fails or  
6 refuses to file a report of cumulative changes in paid-in  
7 capital or report following merger within the time prescribed  
8 by this Act is subject to interest on or after January 1, 1992,  
9 for each calendar month or part of month that it is delinquent,  
10 in the amount of 1% of the amount of franchise taxes provided  
11 by this Act to be paid on account of the issuance of shares or  
12 increase in paid-in capital disclosed on the report of  
13 cumulative changes in paid-in capital or report following  
14 merger, or \$1, whichever is greater. No interest shall be  
15 charged with respect to any amount of delinquent franchise tax  
16 paid pursuant to the Franchise Tax and License Fee Amnesty Act  
17 of 2007.

18 (d) If the annual franchise tax, or the supplemental annual  
19 franchise tax for any 12-month period commencing July 1, 1968,  
20 or July 1 of any subsequent year through June 30, 1983,  
21 assessed in accordance with this Act, is not paid by July 31,  
22 it is delinquent, and there is added a penalty prior to January  
23 1, 1991, and interest on and after January 1, 1991, of 1% for  
24 each month or part of month that it is delinquent commencing  
25 with the month of August, or \$1, whichever is greater. No  
26 penalty shall be imposed, or interest charged, with respect to



1 any amount of delinquent franchise taxes paid pursuant to the  
2 Franchise Tax and License Fee Amnesty Act of 2007.

3 (e) If the supplemental annual franchise tax assessed in  
4 accordance with the provisions of this Act for the 12-month  
5 period commencing July 1, 1967, is not paid by September 30,  
6 1967, it is delinquent, and there is added a penalty prior to  
7 January 1, 1991, and interest on and after January 1, 1991, of  
8 1% for each month or part of month that it is delinquent  
9 commencing with the month of October, 1967. No penalty shall be  
10 imposed, or interest charged, with respect to any amount of  
11 delinquent franchise taxes paid pursuant to the Franchise Tax  
12 and License Fee Amnesty Act of 2007.

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

24 (g) Any corporation, domestic or foreign, failing to pay  
25 the prescribed fee for assumed corporate name renewal when due  
26 and payable shall be given notice of nonpayment by the

1 Secretary of State by regular mail; and if the fee together  
2 with a penalty fee of \$5 is not paid within 90 days after the  
3 notice is mailed, the right to use the assumed name shall  
4 cease.

5 (h) Any corporation which (i) puts forth any sign or  
6 advertisement, assuming any name other than that by which it is  
7 incorporated or otherwise authorized by law to act or (ii)  
8 violates Section 3.25, shall be guilty of a Class C misdemeanor  
9 and shall be deemed guilty of an additional offense for each  
10 day it shall continue to so offend.

11 (i) Each corporation, domestic or foreign, that fails or  
12 refuses (1) to file in the office of the recorder within the  
13 time prescribed by this Act any document required by this Act  
14 to be so filed, or (2) to answer truthfully and fully within  
15 the time prescribed by this Act interrogatories propounded by  
16 the Secretary of State in accordance with this Act, or (3) to  
17 perform any other act required by this Act to be performed by  
18 the corporation, is guilty of a Class C misdemeanor.

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

23 (Source: P.A. 91-464, eff. 1-1-00; 91-906, eff. 1-1-01.)

24

ARTICLE 10. AMENDATORY PROVISIONS

1 Section 10-5. The Illinois Income Tax Act is amended by  
2 changing Sections 203, 205, 207, 304, 502, 711, 712, 713, 804,  
3 911, and 1501 and by adding Section 709.5 as follows:

4 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

5 Sec. 203. Base income defined.

6 (a) Individuals.

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

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

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

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

25 (C) An amount equal to the amount received during

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

12           (D) An amount equal to the amount of the capital  
13          gain deduction allowable under the Internal Revenue  
14          Code, to the extent deducted from gross income in the  
15          computation of adjusted gross income;

16           (D-5) An amount, to the extent not included in  
17          adjusted gross income, equal to the amount of money  
18          withdrawn by the taxpayer in the taxable year from a  
19          medical care savings account and the interest earned on  
20          the account in the taxable year of a withdrawal  
21          pursuant to subsection (b) of Section 20 of the Medical  
22          Care Savings Account Act or subsection (b) of Section  
23          20 of the Medical Care Savings Account Act of 2000;

24           (D-10) For taxable years ending after December 31,  
25          1997, an amount equal to any eligible remediation costs  
26          that the individual deducted in computing adjusted

1 gross income and for which the individual claims a  
2 credit under subsection (l) of Section 201;

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

8 (D-16) 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 the aggregate amount of the  
13 deductions taken in all taxable years under  
14 subparagraph (Z) with respect to that property.

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

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

25 (D-17) ~~An~~ ~~For taxable years ending on or after~~  
26 ~~December 31, 2004,~~ an amount equal to the amount

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

1 This paragraph shall not apply to the following:

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

8 (ii) an item of interest paid, accrued, or  
9 incurred, directly or indirectly, to a foreign  
10 person if the taxpayer can establish, based on a  
11 preponderance of the evidence, both of the  
12 following:

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

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

24 (iii) the taxpayer can establish, based on  
25 clear and convincing evidence, that the interest  
26 paid, accrued, or incurred relates to a contract or

1 agreement entered into at arm's-length rates and  
2 terms and the principal purpose for the payment is  
3 not federal or Illinois tax avoidance; or

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

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

21 (D-18) ~~An~~ ~~For taxable years ending on or after~~  
22 ~~December 31, 2004,~~ ~~an~~ amount equal to the amount of  
23 intangible expenses and costs otherwise allowed as a  
24 deduction in computing base income, and that were paid,  
25 accrued, or incurred, directly or indirectly, (i) for  
26 taxable years ending on or after December 31, 2004, to



1 a foreign person who would be a member of the same  
2 unitary business group but for the fact that the  
3 foreign person's business activity outside the United  
4 States is 80% or more of that person's total business  
5 activity and (ii) for taxable years ending on or after  
6 December 31, 2008, to a foreign person who would be a  
7 member of the same unitary business group but for the  
8 fact that the person is prohibited under Section  
9 1501(a)(27) from being included in the unitary  
10 business group because he or she is ordinarily required  
11 to apportion business income under different  
12 subsections of Section 304. The addition modification  
13 required by this subparagraph shall be reduced to the  
14 extent that dividends were included in base income of  
15 the unitary group for the same taxable year and  
16 received by the taxpayer or by a member of the  
17 taxpayer's unitary business group (including amounts  
18 included in gross income under Sections 951 through 964  
19 of the Internal Revenue Code and amounts included in  
20 gross income under Section 78 of the Internal Revenue  
21 Code) with respect to the stock of the same person to  
22 whom the intangible expenses and costs were directly or  
23 indirectly paid, incurred, or accrued. The preceding  
24 sentence does not apply to the extent that the same  
25 dividends caused a reduction to the addition  
26 modification required under Section 203(a)(2)(D-17) of

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

15                 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

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

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

1           accrued. The preceding sentence does not apply to the  
2           extent that the same dividends caused a reduction to  
3           the addition modification required under Section  
4           203(a)(2)(D-17) of this Act.

5           (D-20) For taxable years beginning on or after  
6           January 1, 2002, in the case of a distribution from a  
7           qualified tuition program under Section 529 of the  
8           Internal Revenue Code, other than (i) a distribution  
9           from a College Savings Pool created under Section 16.5  
10          of the State Treasurer Act or (ii) a distribution from  
11          the Illinois Prepaid Tuition Trust Fund, an amount  
12          equal to the amount excluded from gross income under  
13          Section 529(c)(3)(B);

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

16               (E) For taxable years ending before December 31,  
17               2001, any amount included in such total in respect of  
18               any compensation (including but not limited to any  
19               compensation paid or accrued to a serviceman while a  
20               prisoner of war or missing in action) paid to a  
21               resident by reason of being on active duty in the Armed  
22               Forces of the United States and in respect of any  
23               compensation paid or accrued to a resident who as a  
24               governmental employee was a prisoner of war or missing  
25               in action, and in respect of any compensation paid to a  
26               resident in 1971 or thereafter for annual training

1 performed pursuant to Sections 502 and 503, Title 32,  
2 United States Code as a member of the Illinois National  
3 Guard. For taxable years ending on or after December  
4 31, 2001, any amount included in such total in respect  
5 of any compensation (including but not limited to any  
6 compensation paid or accrued to a serviceman while a  
7 prisoner of war or missing in action) paid to a  
8 resident by reason of being a member of any component  
9 of the Armed Forces of the United States and in respect  
10 of any compensation paid or accrued to a resident who  
11 as a governmental employee was a prisoner of war or  
12 missing in action, and in respect of any compensation  
13 paid to a resident in 2001 or thereafter by reason of  
14 being a member of the Illinois National Guard. The  
15 provisions of this amendatory Act of the 92nd General  
16 Assembly are exempt from the provisions of Section 250;

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

1           thereto;

2           (G) The valuation limitation amount;

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

6           (I) An amount equal to all amounts included in such  
7 total pursuant to the provisions of Section 111 of the  
8 Internal Revenue Code as a recovery of items previously  
9 deducted from adjusted gross income in the computation  
10 of taxable income;

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

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

1           subparagraph (J) of paragraph (2) of this subsection  
2           shall not be eligible for the deduction provided under  
3           this subparagraph (K);

4           (L) For taxable years ending after December 31,  
5           1983, an amount equal to all social security benefits  
6           and railroad retirement benefits included in such  
7           total pursuant to Sections 72(r) and 86 of the Internal  
8           Revenue Code;

9           (M) With the exception of any amounts subtracted  
10          under subparagraph (N), an amount equal to the sum of  
11          all amounts disallowed as deductions by (i) Sections  
12          171(a) (2), and 265(2) of the Internal Revenue Code of  
13          1954, as now or hereafter amended, and all amounts of  
14          expenses allocable to interest and disallowed as  
15          deductions by Section 265(1) of the Internal Revenue  
16          Code of 1954, as now or hereafter amended; and (ii) for  
17          taxable years ending on or after August 13, 1999,  
18          Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
19          the Internal Revenue Code; the provisions of this  
20          subparagraph are exempt from the provisions of Section  
21          250;

22          (N) An amount equal to all amounts included in such  
23          total which are exempt from taxation by this State  
24          either by reason of its statutes or Constitution or by  
25          reason of the Constitution, treaties or statutes of the  
26          United States; provided that, in the case of any



1 statute of this State or of the United States, any  
2 treaty of the United States, the Illinois  
3 Constitution, or the United States Constitution that  
4 exempts income derived from bonds or other obligations  
5 from the tax imposed under this Act, the amount  
6 exempted shall be the income ~~interest~~ net of bond  
7 premium amortization, interest expense incurred on  
8 indebtedness to carry the bond or other obligation,  
9 expenses incurred in producing the income to be  
10 deducted, and all other related expenses. The amount of  
11 expenses to be taken into account under this provision  
12 may not exceed the amount of income that is exempted;

13 (O) An amount equal to any contribution made to a  
14 job training project established pursuant to the Tax  
15 Increment Allocation Redevelopment Act;

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

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

26 (R) An amount equal to the amount of any federal or

1 State bonus paid to veterans of the Persian Gulf War;

2 (S) An amount, to the extent included in adjusted  
3 gross income, equal to the amount of a contribution  
4 made in the taxable year on behalf of the taxpayer to a  
5 medical care savings account established under the  
6 Medical Care Savings Account Act or the Medical Care  
7 Savings Account Act of 2000 to the extent the  
8 contribution is accepted by the account administrator  
9 as provided in that Act;

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

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

23 (V) Beginning with tax years ending on or after  
24 December 31, 1995 and ending with tax years ending on  
25 or before December 31, 2004, an amount equal to the  
26 amount paid by a taxpayer who is a self-employed

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

24 (W) For taxable years beginning on or after January  
25 1, 1998, all amounts included in the taxpayer's federal  
26 gross income in the taxable year from amounts converted

1 from a regular IRA to a Roth IRA. This paragraph is  
2 exempt from the provisions of Section 250;

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

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

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

1 Section 250;

2 (Z) For taxable years 2001 and thereafter, for the  
3 taxable year in which the bonus depreciation deduction  
4 is taken on the taxpayer's federal income tax return  
5 under subsection (k) of Section 168 of the Internal  
6 Revenue Code and for each applicable taxable year  
7 thereafter, an amount equal to "x", where:

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

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

19 (3) for taxable years ending after December  
20 31, 2005:

21 (i) for property on which a bonus  
22 depreciation deduction of 30% of the adjusted  
23 basis was taken, "x" equals "y" multiplied by  
24 30 and then divided by 70 (or "y" multiplied by  
25 0.429); and

26 (ii) for property on which a bonus

1 depreciation deduction of 50% of the adjusted  
2 basis was taken, "x" equals "y" multiplied by  
3 1.0.

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

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

17 If the taxpayer continues to own property through  
18 the last day of the last tax year for which the  
19 taxpayer may claim a depreciation deduction for  
20 federal income tax purposes and for which the taxpayer  
21 was required in any taxable year to make an addition  
22 modification under subparagraph (D-15), then an amount  
23 equal to that addition modification.

24 The taxpayer is allowed to take the deduction under  
25 this subparagraph only once with respect to any one  
26 piece of property.

1           This subparagraph (AA) is exempt from the  
2 provisions of Section 250;

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

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

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



1 the fact that the foreign person's business activity  
2 outside the United States is 80% or more of that  
3 person's total business activity and (ii) for taxable  
4 years ending on or after December 31, 2008, to a  
5 foreign person who would be a member of the same  
6 unitary business group but for the fact that the person  
7 is prohibited under Section 1501(a)(27) from being  
8 included in the unitary business group because he or  
9 she is ordinarily required to apportion business  
10 income under different subsections of Section 304, but  
11 not to exceed the addition modification required to be  
12 made for the same taxable year under Section  
13 203(a)(2)(D-17) for interest paid, accrued, or  
14 incurred, directly or indirectly, to the same ~~foreign~~  
15 person; ~~and~~

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

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

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

24           (b) Corporations.

25           (1) In general. In the case of a corporation, base

1 income means an amount equal to the taxpayer's taxable  
2 income for the taxable year as modified by paragraph (2).

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

6 (A) An amount equal to all amounts paid or accrued  
7 to the taxpayer as interest and all distributions  
8 received from regulated investment companies during  
9 the taxable year to the extent excluded from gross  
10 income in the computation of taxable income;

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

14 (C) In the case of a regulated investment company,  
15 an amount equal to the excess of (i) the net long-term  
16 capital gain for the taxable year, over (ii) the amount  
17 of the capital gain dividends designated as such in  
18 accordance with Section 852(b)(3)(C) of the Internal  
19 Revenue Code and any amount designated under Section  
20 852(b)(3)(D) of the Internal Revenue Code,  
21 attributable to the taxable year (this amendatory Act  
22 of 1995 (Public Act 89-89) is declarative of existing  
23 law and is not a new enactment);

24 (D) The amount of any net operating loss deduction  
25 taken in arriving at taxable income, other than a net  
26 operating loss carried forward from a taxable year

1 ending prior to December 31, 1986;

2 (E) For taxable years in which a net operating loss  
3 carryback or carryforward from a taxable year ending  
4 prior to December 31, 1986 is an element of taxable  
5 income under paragraph (1) of subsection (e) or  
6 subparagraph (E) of paragraph (2) of subsection (e),  
7 the amount by which addition modifications other than  
8 those provided by this subparagraph (E) exceeded  
9 subtraction modifications in such earlier taxable  
10 year, with the following limitations applied in the  
11 order that they are listed:

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

20 (ii) the addition modification relating to the  
21 net operating loss carried back or forward to the  
22 taxable year from any taxable year ending prior to  
23 December 31, 1986 shall not exceed the amount of  
24 such carryback or carryforward;

25 For taxable years in which there is a net operating  
26 loss carryback or carryforward from more than one other

1 taxable year ending prior to December 31, 1986, the  
2 addition modification provided in this subparagraph  
3 (E) shall be the sum of the amounts computed  
4 independently under the preceding provisions of this  
5 subparagraph (E) for each such taxable year;

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

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

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

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

1 was allowed in any taxable year to make a subtraction  
2 modification under subparagraph (T), then an amount  
3 equal to that subtraction modification.

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

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

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

9 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the  
26 interest expense between the taxpayer and the

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

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

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

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



1           by which the Department will utilize its authority  
2           under Section 404 of this Act;

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

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

24 This paragraph shall not apply to the following:

25 (i) any item of intangible expenses or costs  
26 paid, accrued, or incurred, directly or

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

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

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

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

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

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

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

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

1           included in base income of the unitary group for the  
2           same taxable year and received by the taxpayer or by a  
3           member of the taxpayer's unitary business group  
4           (including amounts included in gross income under  
5           Sections 951 through 964 of the Internal Revenue Code  
6           and amounts included in gross income under Section 78  
7           of the Internal Revenue Code) with respect to the stock  
8           of the same person to whom the intangible expenses and  
9           costs were directly or indirectly paid, incurred, or  
10           accrued. The preceding sentence does not apply to the  
11           extent that the same dividends caused a reduction to  
12           the addition modification required under Section  
13           203(a)(2)(D-17) of this Act;

14           (E-15) For taxable years beginning after December  
15           31, 2008, any deduction for dividends paid that is  
16           allowed to a real estate investment trust under Section  
17           857(b)(2)(B) of the Internal Revenue Code for  
18           dividends paid;

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

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

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

26                   (H) In the case of a regulated investment company,

1 an amount equal to the amount of exempt interest  
2 dividends as defined in subsection (b) (5) of Section  
3 852 of the Internal Revenue Code, paid to shareholders  
4 for the taxable year;

5 (I) With the exception of any amounts subtracted  
6 under subparagraph (J), an amount equal to the sum of  
7 all amounts disallowed as deductions by (i) Sections  
8 171(a) (2), and 265(a)(2) and amounts disallowed as  
9 interest expense by Section 291(a)(3) of the Internal  
10 Revenue Code, as now or hereafter amended, and all  
11 amounts of expenses allocable to interest and  
12 disallowed as deductions by Section 265(a)(1) of the  
13 Internal Revenue Code, as now or hereafter amended; and  
14 (ii) for taxable years ending on or after August 13,  
15 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and  
16 832(b)(5)(B)(i) of the Internal Revenue Code; the  
17 provisions of this subparagraph are exempt from the  
18 provisions of Section 250;

19 (J) An amount equal to all amounts included in such  
20 total which are exempt from taxation by this State  
21 either by reason of its statutes or Constitution or by  
22 reason of the Constitution, treaties or statutes of the  
23 United States; provided that, in the case of any  
24 statute of this State or of the United States, any  
25 treaty of the United States, the Illinois  
26 Constitution, or the United States Constitution that

1           exempts income derived from bonds or other obligations  
2           from the tax imposed under this Act, the amount  
3           exempted shall be the income ~~interest~~ net of bond  
4           premium amortization, interest expense incurred on  
5           indebtedness to carry the bond or other obligation,  
6           expenses incurred in producing the income to be  
7           deducted, and all other related expenses. The amount of  
8           expenses to be taken into account under this provision  
9           may not exceed the amount of income that is exempted;

10           (K) 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 (K) is exempt from the  
19           provisions of Section 250;

20           (L) An amount equal to those dividends included in  
21           such total that were paid by a corporation that  
22           conducts business operations in a federally designated  
23           Foreign Trade Zone or Sub-Zone and that is designated a  
24           High Impact Business located in Illinois; provided  
25           that dividends eligible for the deduction provided in  
26           subparagraph (K) of paragraph 2 of this subsection

1 shall not be eligible for the deduction provided under  
2 this subparagraph (L);

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



1           (M-1) For any taxpayer that is a financial  
2 organization within the meaning of Section 304(c) of  
3 this Act, an amount included in such total as interest  
4 income from a loan or loans made by such taxpayer to a  
5 borrower, to the extent that such a loan is secured by  
6 property which is eligible for the High Impact Business  
7 Investment Credit. To determine the portion of a loan  
8 or loans that is secured by property eligible for a  
9 Section 201(h) 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(h) 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 a federally  
16 designated Foreign Trade Zone or Sub-Zone located in  
17 Illinois. No taxpayer that is eligible for the  
18 deduction provided in subparagraph (M) of paragraph  
19 (2) of this subsection shall be eligible for the  
20 deduction provided under this subparagraph (M-1). The  
21 subtraction modification available to taxpayers in any  
22 year under this subsection shall be that portion of the  
23 total interest paid by the borrower with respect to  
24 such loan attributable to the eligible property as  
25 calculated under the previous sentence;

26           (N) Two times any contribution made during the

1 taxable year to a designated zone organization to the  
2 extent that the contribution (i) qualifies as a  
3 charitable contribution under subsection (c) of  
4 Section 170 of the Internal Revenue Code and (ii) must,  
5 by its terms, be used for a project approved by the  
6 Department of Commerce and Economic Opportunity under  
7 Section 11 of the Illinois Enterprise Zone Act or under  
8 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment  
9 Zone Act. This subparagraph (N) is exempt from the  
10 provisions of Section 250;

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

1           December 31, 2008, dividends received from a real  
2           estate investment trust; plus (ii) 100% of the amount  
3           by which dividends, included in taxable income and  
4           received, including, for taxable years ending on or  
5           after December 31, 1988, dividends received or deemed  
6           received or paid or deemed paid under Sections 951  
7           through 964 of the Internal Revenue Code and including,  
8           for taxable years ending on or after December 31, 2008,  
9           dividends received from a real estate investment  
10           trust, from any such corporation specified in clause  
11           (i) that would but for the provisions of Section 1504  
12           (b) (3) of the Internal Revenue Code be treated as a  
13           member of the affiliated group which includes the  
14           dividend recipient, exceed the amount of the  
15           modification provided under subparagraph (G) of  
16           paragraph (2) of this subsection (b) which is related  
17           to such dividends;

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

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

26           (R) On and after July 20, 1999, in the case of an

1 attorney-in-fact with respect to whom an interinsurer  
2 or a reciprocal insurer has made the election under  
3 Section 835 of the Internal Revenue Code, 26 U.S.C.  
4 835, an amount equal to the excess, if any, of the  
5 amounts paid or incurred by that interinsurer or  
6 reciprocal insurer in the taxable year to the  
7 attorney-in-fact over the deduction allowed to that  
8 interinsurer or reciprocal insurer with respect to the  
9 attorney-in-fact under Section 835(b) of the Internal  
10 Revenue Code for the taxable year; the provisions of  
11 this subparagraph are exempt from the provisions of  
12 Section 250;

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

23 (T) For taxable years 2001 and thereafter, for the  
24 taxable year in which the bonus depreciation deduction  
25 is taken on the taxpayer's federal income tax return  
26 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year  
2 thereafter, an amount equal to "x", where:

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

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

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

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

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

25 The aggregate amount deducted under this  
26 subparagraph in all taxable years for any one piece of

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

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

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

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

22 This subparagraph (U) is exempt from the  
23 provisions of Section 250;

24 (V) The amount of: (i) any interest income (net of  
25 the deductions allocable thereto) taken into account  
26 for the taxable year with respect to a transaction with

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

14 (W) An amount equal to the interest income taken  
15 into account for the taxable year (net of the  
16 deductions allocable thereto) with respect to  
17 transactions with (i) a foreign person who would be a  
18 member of the taxpayer's unitary business group but for  
19 the fact that the foreign person's business activity  
20 outside the United States is 80% or more of that  
21 person's total business activity and (ii) for taxable  
22 years ending on or after December 31, 2008, to a  
23 foreign person who would be a member of the same  
24 unitary business group but for the fact that the person  
25 is prohibited under Section 1501(a)(27) from being  
26 included in the unitary business group because he or

1           she is ordinarily required to apportion business  
2           income under different subsections of Section 304, but  
3           not to exceed the addition modification required to be  
4           made for the same taxable year under Section  
5           203(b) (2) (E-12) for interest paid, accrued, or  
6           incurred, directly or indirectly, to the same ~~foreign~~  
7           person; ~~and~~

8           (X) An amount equal to the income from intangible  
9           property taken into account for the taxable year (net  
10          of the deductions allocable thereto) with respect to  
11          transactions with a foreign person who would be a  
12          member of the taxpayer's unitary business group but for  
13          the fact that the foreign person's business activity  
14          outside the United States is 80% or more of that  
15          person's total business activity and (ii) for taxable  
16          years ending on or after December 31, 2008, to a  
17          foreign person who would be a member of the same  
18          unitary business group but for the fact that the person  
19          is prohibited under Section 1501(a) (27) from being  
20          included in the unitary business group because he or  
21          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(b) (2) (E-13) for intangible expenses and costs  
26          paid, accrued, or incurred, directly or indirectly, to



1 the same foreign person; ~~and~~.

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

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

20 (c) Trusts and estates.

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

24 (2) Modifications. Subject to the provisions of  
25 paragraph (3), the taxable income referred to in paragraph

1           (1) shall be modified by adding thereto the sum of the  
2 following amounts:

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

7           (B) In the case of (i) an estate, \$600; (ii) a  
8 trust which, under its governing instrument, is  
9 required to distribute all of its income currently,  
10 \$300; and (iii) any other trust, \$100, but in each such  
11 case, only to the extent such amount was deducted in  
12 the computation of taxable income;

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

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

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

1 subtraction modifications in such taxable year, with  
2 the following limitations applied in the order that  
3 they are listed:

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

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

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

24 (F) For taxable years ending on or after January 1,  
25 1989, an amount equal to the tax deducted pursuant to  
26 Section 164 of the Internal Revenue Code if the trust

1 or estate is claiming the same tax for purposes of the  
2 Illinois foreign tax credit under Section 601 of this  
3 Act;

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

8 (G-5) For taxable years ending after December 31,  
9 1997, an amount equal to any eligible remediation costs  
10 that the trust or estate deducted in computing adjusted  
11 gross income and for which the trust or estate claims a  
12 credit under subsection (l) of Section 201;

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

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

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 allowed in any taxable year to make a subtraction  
4 modification under subparagraph (R), then an amount  
5 equal to that subtraction modification.

6 The taxpayer is required to make the addition  
7 modification under this subparagraph only once with  
8 respect to any one piece of property;

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

1 shall be reduced to the extent that dividends were  
2 included in base income of the unitary group for the  
3 same taxable year and received by the taxpayer or by a  
4 member of the taxpayer's unitary business group  
5 (including amounts included in gross income pursuant  
6 to Sections 951 through 964 of the Internal Revenue  
7 Code and amounts included in gross income under Section  
8 78 of the Internal Revenue Code) with respect to the  
9 stock of the same person to whom the interest was paid,  
10 accrued, or incurred.

11 This paragraph shall not apply to the following:

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

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

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

1           (b) the transaction giving rise to the  
2           interest expense between the taxpayer and the  
3           foreign person did not have as a principal  
4           purpose the avoidance of Illinois income tax,  
5           and is paid pursuant to a contract or agreement  
6           that reflects an arm's-length interest rate  
7           and terms; or

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

14          (iv) an item of interest paid, accrued, or  
15          incurred, directly or indirectly, to a foreign  
16          person if the taxpayer establishes by clear and  
17          convincing evidence that the adjustments are  
18          unreasonable; or if the taxpayer and the Director  
19          agree in writing to the application or use of an  
20          alternative method of apportionment under Section  
21          304(f).

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

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

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



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

26 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

16 (G-14) For taxable years ending on or after  
17 December 31, 2008, an amount equal to the amount of  
18 insurance premium expenses and costs otherwise allowed  
19 as a deduction in computing base income, and that were  
20 paid, accrued, or incurred, directly or indirectly, to  
21 a person who would be a member of the same unitary  
22 business group but for the fact that the person is  
23 prohibited under Section 1501(a)(27) from being  
24 included in the unitary business group because he or  
25 she is ordinarily required to apportion business  
26 income under different subsections of Section 304. The

1           addition modification required by this subparagraph  
2           shall be reduced to the extent that dividends were  
3           included in base income of the unitary group for the  
4           same taxable year and received by the taxpayer or by a  
5           member of the taxpayer's unitary business group  
6           (including amounts included in gross income under  
7           Sections 951 through 964 of the Internal Revenue Code  
8           and amounts included in gross income under Section 78  
9           of the Internal Revenue Code) with respect to the stock  
10           of the same person to whom the intangible expenses and  
11           costs were directly or indirectly paid, incurred, or  
12           accrued. The preceding sentence does not apply to the  
13           extent that the same dividends caused a reduction to  
14           the addition modification required under Section  
15           203(a)(2)(D-17) of this Act.

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

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

1 Internal Revenue Code and regulations adopted pursuant  
2 thereto;

3 (I) The valuation limitation amount;

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

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

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

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

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

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

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

1           conducts business operations in a federally designated  
2           Foreign Trade Zone or Sub-Zone and that is designated a  
3           High Impact Business located in Illinois; provided  
4           that dividends eligible for the deduction provided in  
5           subparagraph (M) of paragraph (2) of this subsection  
6           shall not be eligible for the deduction provided under  
7           this subparagraph (O);

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

13          (Q) For taxable year 1999 and thereafter, an amount  
14          equal to the amount of any (i) distributions, to the  
15          extent includible in gross income for federal income  
16          tax purposes, made to the taxpayer because of his or  
17          her status as a victim of persecution for racial or  
18          religious reasons by Nazi Germany or any other Axis  
19          regime or as an heir of the victim and (ii) items of  
20          income, to the extent includible in gross income for  
21          federal income tax purposes, attributable to, derived  
22          from or in any way related to assets stolen from,  
23          hidden from, or otherwise lost to a victim of  
24          persecution for racial or religious reasons by Nazi  
25          Germany or any other Axis regime immediately prior to,  
26          during, and immediately after World War II, including,

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

20 (R) 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 (R) is exempt from the provisions of  
3 Section 250;

4 (S) 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 (G-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 (G-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 (S) is exempt from the  
20 provisions of Section 250;

21 (T) 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           (U) 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 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  
20          foreign person who would be a member of the same  
21          unitary business group but for the fact that the person  
22          is prohibited under Section 1501(a)(27) from being  
23          included in the unitary business group because he or  
24          she is ordinarily required to apportion business  
25          income under different subsections of Section 304, but  
26          not to exceed the addition modification required to be

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

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

18 (FF) An amount equal to the income from insurance  
19 premiums taken into account for the taxable year (net  
20 of the deductions allocable thereto) with respect to  
21 transactions with to a person who would be a member of  
22 the same unitary business group but for the fact that  
23 the person is prohibited under Section 1501(a)(27)  
24 from being included in the unitary business group  
25 because he or she is ordinarily required to apportion  
26 business income under different subsections of Section

1           304, but not to exceed the addition modification  
2           required to be made for the same taxable year under  
3           Section 203(a)(2)(D-18) for intangible expenses and  
4           costs paid, accrued, or incurred, directly or  
5           indirectly, to the same person.

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

13           (d) Partnerships.

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

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

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

24           (B) An amount equal to the amount of tax imposed by  
25 this Act to the extent deducted from gross income for

1 the taxable year;

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

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

9 (D-5) 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;

14 (D-6) 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 (D-5), then  
18 an amount equal to the aggregate amount of the  
19 deductions taken in all taxable years under  
20 subparagraph (O) 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 (O), 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 (D-7) ~~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 the foreign person's business activity  
13 outside the United States is 80% or more of the foreign  
14 person's total business activity and (ii) for taxable  
15 years ending on or after December 31, 2008, to a  
16 foreign person who would be a member of the same  
17 unitary business group but for the fact that the person  
18 is 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; and

1           (D-8) ~~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 foreign person who would be a  
13 member of the same unitary business group but for the  
14 fact that the person is prohibited under Section  
15 1501(a)(27) from being included in the unitary  
16 business group because he or she is ordinarily required  
17 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 intangible expenses and costs  
3 were directly or indirectly paid, incurred or accrued.  
4 The preceding sentence shall not apply to the extent  
5 that the same dividends caused a reduction to the  
6 addition modification required under Section  
7 203(d)(2)(D-7) of this Act. As used in this  
8 subparagraph, the term "intangible expenses and costs"  
9 includes (1) expenses, losses, and costs for, or  
10 related to, the direct or indirect acquisition, use,  
11 maintenance or management, ownership, sale, exchange,  
12 or any other disposition of intangible property; (2)  
13 losses incurred, directly or indirectly, from  
14 factoring transactions or discounting transactions;  
15 (3) royalty, patent, technical, and copyright fees;  
16 (4) licensing fees; and (5) other similar expenses and  
17 costs. For purposes of this subparagraph, "intangible  
18 property" includes patents, patent applications, trade  
19 names, trademarks, service marks, copyrights, mask  
20 works, trade secrets, and similar types of intangible  
21 assets;

22 This paragraph shall not apply to the following:

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

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

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

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

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

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

1 alternative method of apportionment under Section  
2 304(f);

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

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

1           member of the taxpayer's unitary business group  
2           (including amounts included in gross income under  
3           Sections 951 through 964 of the Internal Revenue Code  
4           and amounts included in gross income under Section 78  
5           of the Internal Revenue Code) with respect to the stock  
6           of the same person to whom the intangible expenses and  
7           costs were directly or indirectly paid, incurred, or  
8           accrued. The preceding sentence does not apply to the  
9           extent that the same dividends caused a reduction to  
10           the addition modification required under Section  
11           203(a)(2)(D-17) of this Act.

12           and by deducting from the total so obtained the following  
13           amounts:

14                   (E) The valuation limitation amount;

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

18                   (G) An amount equal to all amounts included in  
19           taxable income as modified by subparagraphs (A), (B),  
20           (C) and (D) which are exempt from taxation by this  
21           State either by reason of its statutes or Constitution  
22           or by reason of the Constitution, treaties or statutes  
23           of the United States; provided that, in the case of any  
24           statute of this State or of the United States, any  
25           treaty of the United States, the Illinois  
26           Constitution, or the United States Constitution that

1 exempts income derived from bonds or other obligations  
2 from the tax imposed under this Act, the amount  
3 exempted shall be the income interest net of bond  
4 premium amortization, interest expense incurred on  
5 indebtedness to carry the bond or other obligation,  
6 expenses incurred in producing the income to be  
7 deducted, and all other related expenses. The amount of  
8 expenses to be taken into account under this provision  
9 may not exceed the amount of income that is exempted;

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

16 (I) An amount equal to all amounts of income  
17 distributable to an entity subject to the Personal  
18 Property Tax Replacement Income Tax imposed by  
19 subsections (c) and (d) of Section 201 of this Act  
20 including amounts distributable to organizations  
21 exempt from federal income tax by reason of Section  
22 501(a) of the Internal Revenue Code;

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

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

10           (K) 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,  
14           enacted by the 82nd General Assembly, or a River Edge  
15           Redevelopment Zone or zones created under the River  
16           Edge Redevelopment Zone Act and conducts substantially  
17           all of its operations in an Enterprise Zone or Zones or  
18           from a River Edge Redevelopment Zone or zones. This  
19           subparagraph (K) is exempt from the provisions of  
20           Section 250;

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

24           (M) An amount equal to those dividends included in  
25           such total that were paid by a corporation that  
26           conducts business operations in a federally designated



1 Foreign Trade Zone or Sub-Zone and that is designated a  
2 High Impact Business located in Illinois; provided  
3 that dividends eligible for the deduction provided in  
4 subparagraph (K) of paragraph (2) of this subsection  
5 shall not be eligible for the deduction provided under  
6 this subparagraph (M);

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

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

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

25 (2) for taxable years ending on or before  
26 December 31, 2005, "x" equals "y" multiplied by 30

1 and then divided by 70 (or "y" multiplied by  
2 0.429); and

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

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

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

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

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

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

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

11          This subparagraph (P) is exempt from the  
12          provisions of Section 250;

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

1           203(d)(2)(D-8), but not to exceed the amount of such  
2 addition modification;

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

23           (S) An amount equal to the income from intangible  
24 property taken into account for the taxable year (net  
25 of the deductions allocable thereto) with respect to  
26 transactions with (i) a foreign person who would be a

1 member of the taxpayer's unitary business group but for  
2 the fact that the foreign person's business activity  
3 outside the United States is 80% or more of that  
4 person's total business activity and (ii) for taxable  
5 years ending on or after December 31, 2008, to a  
6 foreign person who would be a member of the same  
7 unitary business group but for the fact that the person  
8 is prohibited under Section 1501(a)(27) from being  
9 included in the unitary business group because he or  
10 she is ordinarily required to apportion business  
11 income under different subsections of Section 304, but  
12 not to exceed the addition modification required to be  
13 made for the same taxable year under Section  
14 203(d)(2)(D-8) for intangible expenses and costs paid,  
15 accrued, or incurred, directly or indirectly, to the  
16 same foreign person; and-

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

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

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

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

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

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

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

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

1 (C) Regulated investment companies. In the case of  
2 a regulated investment company subject to the tax  
3 imposed by Section 852 of the Internal Revenue Code,  
4 investment company taxable income;

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

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

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

26 (G) Subchapter S corporations. In the case of: (i)



1 a Subchapter S corporation for which there is in effect  
2 an election for the taxable year under Section 1362 of  
3 the Internal Revenue Code, the taxable income of such  
4 corporation determined in accordance with Section  
5 1363(b) of the Internal Revenue Code, except that  
6 taxable income shall take into account those items  
7 which are required by Section 1363(b)(1) of the  
8 Internal Revenue Code to be separately stated; and (ii)  
9 a Subchapter S corporation for which there is in effect  
10 a federal election to opt out of the provisions of the  
11 Subchapter S Revision Act of 1982 and have applied  
12 instead the prior federal Subchapter S rules as in  
13 effect on July 1, 1982, the taxable income of such  
14 corporation determined in accordance with the federal  
15 Subchapter S rules as in effect on July 1, 1982; and

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

23 (3) Recapture of business expenses on disposition of  
24 asset or business. Notwithstanding any other law to the  
25 contrary, if in prior years income from an asset or  
26 business has been classified as business income and in a

1 later year is demonstrated to be non-business income, then  
2 all expenses, without limitation, deducted in such later  
3 year and in the 2 immediately preceding taxable years  
4 related to that asset or business that generated the  
5 non-business income shall be added back and recaptured as  
6 business income in the year of the disposition of the asset  
7 or business. Such amount shall be apportioned to Illinois  
8 using the greater of the apportionment fraction computed  
9 for the business under Section 304 of this Act for the  
10 taxable year or the average of the apportionment fractions  
11 computed for the business under Section 304 of this Act for  
12 the taxable year and for the 2 immediately preceding  
13 taxable years.

14 (f) Valuation limitation amount.

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

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

23 (B) The lesser of (i) the sum of the pre-August 1,  
24 1969 appreciation amounts (to the extent consisting of  
25 capital gain) for all property in respect of which such  
26 gain was reported for federal income tax purposes for

1           the taxable year, or (ii) the net capital gain for the  
2           taxable year, reduced in either case by any amount of  
3           such gain included in the amount determined under  
4           subsection (a) (2) (F) or (c) (2) (H).

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

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

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

1 period for the property.

2 (C) The Department shall prescribe such  
3 regulations as may be necessary to carry out the  
4 purposes of this paragraph.

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

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

17 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;  
18 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.  
19 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

20 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

21 Sec. 205. Exempt organizations.

22 (a) Charitable, etc. organizations. The base income of an  
23 organization which is exempt from the federal income tax by

1 reason of Section 501(a) of the Internal Revenue Code shall not  
2 be determined under section 203 of this Act, but shall be its  
3 unrelated business taxable income as determined under section  
4 512 of the Internal Revenue Code, without any deduction for the  
5 tax imposed by this Act. The standard exemption provided by  
6 section 204 of this Act shall not be allowed in determining the  
7 net income of an organization to which this subsection applies.

8 (b) Partnerships. A partnership as such shall not be  
9 subject to the tax imposed by subsection 201 (a) and (b) of  
10 this Act, but shall be subject to the replacement tax imposed  
11 by subsection 201 (c) and (d) of this Act and shall compute its  
12 base income as described in subsection (d) of Section 203 of  
13 this Act. For taxable years ending on or after December 31,  
14 2004, an investment partnership, as defined in Section  
15 1501(a)(11.5) of this Act, shall not be subject to the tax  
16 imposed by subsections (c) and (d) of Section 201 of this Act.  
17 For taxable years ending on or after December 31, 2008, an  
18 investment partnership, as defined in Section 1501(a)(11.5) of  
19 this Act, shall not be subject to the tax imposed by  
20 subsections (c) and (d) of Section 201 of this Act. A  
21 partnership shall file such returns and other information at  
22 such time and in such manner as may be required under Article 5  
23 of this Act. The partners in a partnership shall be liable for  
24 the replacement tax imposed by subsection 201 (c) and (d) of  
25 this Act on such partnership, to the extent such tax is not  
26 paid by the partnership, as provided under the laws of Illinois

1 governing the liability of partners for the obligations of a  
2 partnership. Persons carrying on business as partners shall be  
3 liable for the tax imposed by subsection 201 (a) and (b) of  
4 this Act only in their separate or individual capacities.

5 (c) Subchapter S corporations. A Subchapter S corporation  
6 shall not be subject to the tax imposed by subsection 201 (a)  
7 and (b) of this Act but shall be subject to the replacement tax  
8 imposed by subsection 201 (c) and (d) of this Act and shall  
9 file such returns and other information at such time and in  
10 such manner as may be required under Article 5 of this Act.

11 (d) Combat zone death. An individual relieved from the  
12 federal income tax for any taxable year by reason of section  
13 692 of the Internal Revenue Code shall not be subject to the  
14 tax imposed by this Act for such taxable year.

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

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

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

26 (2) activities of the person's employees or agents

1 located solely at the premises of a printer and related to  
2 quality control, distribution, or printing services  
3 performed by a printer in the State with which the person  
4 has contracted for printing.

5 (g) A nonprofit risk organization that holds a certificate  
6 of authority under Article VIID of the Illinois Insurance Code  
7 is exempt from the tax imposed under this Act with respect to  
8 its activities or operations in furtherance of the powers  
9 conferred upon it under that Article VIID of the Illinois  
10 Insurance Code.

11 (Source: P.A. 93-840, eff. 7-30-04; 93-918, eff. 1-1-05;  
12 revised 10-25-04.)

13 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

14 Sec. 207. Net Losses.

15 (a) If after applying all of the (i) modifications provided  
16 for in paragraph (2) of Section 203(b), paragraph (2) of  
17 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the  
18 allocation and apportionment provisions of Article 3 of this  
19 Act and subsection (c) of this Section, the taxpayer's net  
20 income results in a loss;

21 (1) for any taxable year ending prior to December 31,  
22 1999, such loss shall be allowed as a carryover or  
23 carryback deduction in the manner allowed under Section 172  
24 of the Internal Revenue Code;

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

1 31, 1999 and prior to December 31, 2003, such loss shall be  
2 allowed as a carryback to each of the 2 taxable years  
3 preceding the taxable year of such loss and shall be a net  
4 operating loss carryover to each of the 20 taxable years  
5 following the taxable year of such loss; and

6 (3) for any taxable year ending on or after December  
7 31, 2003, such loss shall be allowed as a net operating  
8 loss carryover to each of the 12 taxable years following  
9 the taxable year of such loss.

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

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

21 (B) The entire amount of such loss shall be carried  
22 to the earliest taxable year to which such loss may be  
23 carried. The amount of such loss which shall be carried  
24 to each of the other taxable years shall be the excess,  
25 if any, of the amount of such loss over the sum of the  
26 deductions for carryback or carryover of such loss



1           allowable for each of the prior taxable years to which  
2           such loss may be carried.

3           (b) Any loss determined under subsection (a) of this  
4           Section must be carried back or carried forward in the same  
5           manner for purposes of subsections (a) and (b) of Section 201  
6           of this Act as for purposes of subsections (c) and (d) of  
7           Section 201 of this Act.

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

1 Revenue Code for the taxable year. The reduction required under  
2 this subsection (c) shall be made after the determination of  
3 Illinois net income for the taxable year in which the  
4 indebtedness is discharged.

5 (Source: P.A. 93-29, eff. 6-20-03.)

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

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

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

1 property, payroll, and sales factors as provided in subsection  
2 (h) of this Section.

3 (1) Property factor.

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

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

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

23 (2) Payroll factor.

24 (A) The payroll factor is a fraction, the numerator of  
25 which is the total amount paid in this State during the  
26 taxable year by the person for compensation, and the

1 denominator of which is the total compensation paid  
2 everywhere during the taxable year.

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

4 (i) The individual's service is performed entirely  
5 within this State;

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

10 (iii) Some of the service is performed within this  
11 State and either the base of operations, or if there is  
12 no base of operations, the place from which the service  
13 is directed or controlled is within this State, or the  
14 base of operations or the place from which the service  
15 is directed or controlled is not in any state in which  
16 some part of the service is performed, but the  
17 individual's residence is in this State.

18 (iv) Compensation paid to nonresident professional  
19 athletes.

20 (a) General. The Illinois source income of a  
21 nonresident individual who is a member of a  
22 professional athletic team includes the portion of the  
23 individual's total compensation for services performed  
24 as a member of a professional athletic team during the  
25 taxable year which the number of duty days spent within  
26 this State performing services for the team in any

1 manner during the taxable year bears to the total  
2 number of duty days spent both within and without this  
3 State during the taxable year.

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

10 (c) Definitions. For purposes of this subpart  
11 (iv):

12 (1) The term "professional athletic team"  
13 includes, but is not limited to, any professional  
14 baseball, basketball, football, soccer, or hockey  
15 team.

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

24 (3) Except as provided in items (C) and (D) of  
25 this subpart (3), the term "duty days" means all  
26 days during the taxable year from the beginning of

1           the professional athletic team's official  
2           pre-season training period through the last game  
3           in which the team competes or is scheduled to  
4           compete. Duty days shall be counted for the year in  
5           which they occur, including where a team's  
6           official pre-season training period through the  
7           last game in which the team competes or is  
8           scheduled to compete, occurs during more than one  
9           tax year.

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

20           (B) Also included in duty days are game  
21           days, practice days, days spent at team  
22           meetings, promotional caravans, preseason  
23           training camps, and days served with the team  
24           through all post-season games in which the team  
25           competes or is scheduled to compete.

26           (C) Duty days for any person who joins a

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

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

21 (E) Days for which a member of a  
22 professional athletic team is on the disabled  
23 list and does not conduct rehabilitation  
24 activities at facilities of the team, and is  
25 not otherwise performing services for the team  
26 in Illinois, shall not be considered duty days

1           spent in this State. All days on the disabled  
2           list, however, are considered to be included in  
3           total duty days spent both within and without  
4           this State.

5           (4) The term "total compensation for services  
6           performed as a member of a professional athletic  
7           team" means the total compensation received during  
8           the taxable year for services performed:

9                   (A) from the beginning of the official  
10                   pre-season training period through the last  
11                   game in which the team competes or is scheduled  
12                   to compete during that taxable year; and

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

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



1 team.

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

19 (3) Sales factor.

20 (A) The sales factor is a fraction, the numerator of  
21 which is the total sales of the person in this State during  
22 the taxable year, and the denominator of which is the total  
23 sales of the person everywhere during the taxable year.

24 (B) Sales of tangible personal property are in this  
25 State if:

26 (i) The property is delivered or shipped to a

1 purchaser, other than the United States government,  
2 within this State regardless of the f. o. b. point or  
3 other conditions of the sale; or

4 (ii) The property is shipped from an office, store,  
5 warehouse, factory or other place of storage in this  
6 State and either the purchaser is the United States  
7 government or the person is not taxable in the state of  
8 the purchaser; provided, however, that premises owned  
9 or leased by a person who has independently contracted  
10 with the seller for the printing of newspapers,  
11 periodicals or books shall not be deemed to be an  
12 office, store, warehouse, factory or other place of  
13 storage for purposes of this Section. For taxable years  
14 ending before December 31, 2008, sales ~~Sales~~ of  
15 tangible personal property are not in this State if the  
16 seller and purchaser would be members of the same  
17 unitary business group but for the fact that either the  
18 seller or purchaser is a person with 80% or more of  
19 total business activity outside of the United States  
20 and the property is purchased for resale.

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

23 (i) Gross receipts from the licensing, sale, or  
24 other disposition of a patent, copyright, trademark,  
25 or similar item of intangible personal property are in  
26 this State to the extent the item is utilized in this

1 State during the year the gross receipts are included  
2 in gross income.

3 (ii) Place of utilization.

4 (I) A patent is utilized in a state to the  
5 extent that it is employed in production,  
6 fabrication, manufacturing, or other processing in  
7 the state or to the extent that a patented product  
8 is produced in the state. If a patent is utilized  
9 in more than one state, the extent to which it is  
10 utilized in any one state shall be a fraction equal  
11 to the gross receipts of the licensee or purchaser  
12 from sales or leases of items produced,  
13 fabricated, manufactured, or processed within that  
14 state using the patent and of patented items  
15 produced within that state, divided by the total of  
16 such gross receipts for all states in which the  
17 patent is utilized.

18 (II) A copyright is utilized in a state to the  
19 extent that printing or other publication  
20 originates in the state. If a copyright is utilized  
21 in more than one state, the extent to which it is  
22 utilized in any one state shall be a fraction equal  
23 to the gross receipts from sales or licenses of  
24 materials printed or published in that state  
25 divided by the total of such gross receipts for all  
26 states in which the copyright is utilized.

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

5 (iii) If the state of utilization of an item of  
6 property governed by this paragraph (B-1) cannot be  
7 determined from the taxpayer's books and records or  
8 from the books and records of any person related to the  
9 taxpayer within the meaning of Section 267(b) of the  
10 Internal Revenue Code, 26 U.S.C. 267, the gross  
11 receipts attributable to that item shall be excluded  
12 from both the numerator and the denominator of the  
13 sales factor.

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

26 (C) For taxable years ending before December 31, 2008,

1        sales ~~Sales~~, other than sales governed by paragraphs (B),  
2        ~~and~~ (B-1), and (B-2), are in this State if:

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

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

10        (C-5) For taxable years ending on or after December 31,  
11        2008, sales, other than sales governed by paragraphs (B),  
12        (B-1), and (B-2), are in this State if the purchaser is in  
13        this State or the sale is otherwise attributable to this  
14        State's marketplace. The following examples are  
15        illustrative:

16                (i) Sales from the sale or lease of real property  
17                are in this State if the property is located in this  
18                State.

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

1           State.

2           (iii) Sales of intangible personal property are in  
3           this State if the purchaser realizes benefit from the  
4           property in this State. If the purchaser realizes  
5           benefit from the property both within and without this  
6           State, the gross receipts from the sale shall be  
7           divided among those states in which the taxpayer is  
8           taxable in proportion to the benefit in each state. If  
9           the proportionate benefit in this State cannot be  
10           determined, the sale shall be excluded from both the  
11           numerator and the denominator of the sales factor.

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

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

1 1995, the following items of income shall not be included  
2 in the numerator or denominator of the sales factor:  
3 dividends; amounts included under Section 78 of the  
4 Internal Revenue Code; and Subpart F income as defined in  
5 Section 952 of the Internal Revenue Code. No inference  
6 shall be drawn from the enactment of this paragraph (D) in  
7 construing this Section for taxable years ending before  
8 December 31, 1995.

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

26 (b) Insurance companies.

1           (1) In general. Except as otherwise provided by  
2 paragraph (2), business income of an insurance company for  
3 a taxable year shall be apportioned to this State by  
4 multiplying such income by a fraction, the numerator of  
5 which is the direct premiums written for insurance upon  
6 property or risk in this State, and the denominator of  
7 which is the direct premiums written for insurance upon  
8 property or risk everywhere. For purposes of this  
9 subsection, the term "direct premiums written" means the  
10 total amount of direct premiums written, assessments and  
11 annuity considerations, and surplus line contracts, but  
12 excluding deposit-type funds, as reported for the taxable  
13 year on the annual statement filed ~~by the company with the~~  
14 ~~Illinois Director of Insurance~~ in the form approved by the  
15 National Convention of Insurance Commissioners as filed by  
16 the taxpayer with the Department of Financial and  
17 Professional Regulation or, if no report is filed with that  
18 Department, as filed by the taxpayer with its state of  
19 domicile. If no such annual report is filed with any of the  
20 United States for a particular year, "direct premiums  
21 written" shall be determined by applying the instructions  
22 to the Illinois annual report form for that year ~~or such~~  
23 ~~other form as may be prescribed in lieu thereof.~~

24           (2) Reinsurance. If the principal source of premiums  
25 written by an insurance company consists of premiums for  
26 reinsurance accepted by it, the business income of such



1 company shall be apportioned to this State by multiplying  
2 such income by a fraction, the numerator of which is the  
3 sum of (i) direct premiums written for insurance upon  
4 property or risk in this State, plus (ii) premiums written  
5 for reinsurance accepted in respect of property or risk in  
6 this State, and the denominator of which is the sum of  
7 (iii) direct premiums written for insurance upon property  
8 or risk everywhere, plus (iv) premiums written for  
9 reinsurance accepted in respect of property or risk  
10 everywhere. For taxable years ending before December 31,  
11 2008, for purposes of this paragraph, premiums written for  
12 reinsurance accepted in respect of property or risk in this  
13 State, whether or not otherwise determinable, may, at the  
14 election of the company, be determined on the basis of the  
15 proportion which premiums written for reinsurance accepted  
16 from companies commercially domiciled in Illinois bears to  
17 premiums written for reinsurance accepted from all  
18 sources, or, alternatively, in the proportion which the sum  
19 of the direct premiums written for insurance upon property  
20 or risk in this State by each ceding company from which  
21 reinsurance is accepted bears to the sum of the total  
22 direct premiums written by each such ceding company for the  
23 taxable year.

24 (c) Financial organizations.

25 (1) In general. For taxable years ending before  
26 December 31, 2008, business ~~Business~~ income of a financial

1 organization shall be apportioned to this State by  
2 multiplying such income by a fraction, the numerator of  
3 which is its business income from sources within this  
4 State, and the denominator of which is its business income  
5 from all sources. For the purposes of this subsection, the  
6 business income of a financial organization from sources  
7 within this State is the sum of the amounts referred to in  
8 subparagraphs (A) through (E) following, but excluding the  
9 adjusted income of an international banking facility as  
10 determined in paragraph (2):

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

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

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

17 (D) Interest charged to customers at places of  
18 business maintained within this State for carrying  
19 debit balances of margin accounts, without deduction  
20 of any costs incurred in carrying such accounts; and

21 (E) Any other gross income resulting from the  
22 operation as a financial organization within this  
23 State. In computing the amounts referred to in  
24 paragraphs (A) through (E) of this subsection, any  
25 amount received by a member of an affiliated group  
26 (determined under Section 1504(a) of the Internal

1 Revenue Code but without reference to whether any such  
2 corporation is an "includible corporation" under  
3 Section 1504(b) of the Internal Revenue Code) from  
4 another member of such group shall be included only to  
5 the extent such amount exceeds expenses of the  
6 recipient directly related thereto.

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

9 (A) Adjusted Income. The adjusted income of an  
10 international banking facility is its income reduced  
11 by the amount of the floor amount.

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

16 (i) The numerator shall be:

17 The average aggregate, determined on a  
18 quarterly basis, of the financial organization's  
19 loans to banks in foreign countries, to foreign  
20 domiciled borrowers (except where secured  
21 primarily by real estate) and to foreign  
22 governments and other foreign official  
23 institutions, as reported for its branches,  
24 agencies and offices within the state on its  
25 "Consolidated Report of Condition", Schedule A,  
26 Lines 2.c., 5.b., and 7.a., which was filed with

1           the Federal Deposit Insurance Corporation and  
2           other regulatory authorities, for the year 1980,  
3           minus

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

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

23          (C) Change to Consolidated Report of Condition and  
24          in Qualification. In the event the Consolidated Report  
25          of Condition which is filed with the Federal Deposit  
26          Insurance Corporation and other regulatory authorities

1 is altered so that the information required for  
2 determining the floor amount is not found on Schedule  
3 A, lines 2.c., 5.b. and 7.a., the financial institution  
4 shall notify the Department and the Department may, by  
5 regulations or otherwise, prescribe or authorize the  
6 use of an alternative source for such information. The  
7 financial institution shall also notify the Department  
8 should its international banking facility fail to  
9 qualify as such, in whole or in part, or should there  
10 be any amendment or change to the Consolidated Report  
11 of Condition, as originally filed, to the extent such  
12 amendment or change alters the information used in  
13 determining the floor amount.

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

1 business income from activities in addition to the  
2 provision of financial services, this subparagraph (3)  
3 shall apply only to its business income from financial  
4 services, and its other business income shall be  
5 apportioned to this State under the applicable provisions  
6 of this Section. The following examples are illustrative:

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

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

21 (iii) Interest income, commissions, fees, gains on  
22 disposition, and other receipts from consumer loans  
23 that are not secured by real or tangible personal  
24 property are from sources in this State if the debtor  
25 is a resident of this State.

26 (iv) Interest income, commissions, fees, gains on

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

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

18       (vi) Receipts from the performance of services,  
19       including, but not limited to, fiduciary, advisory,  
20       and brokerage services, are in this State if the  
21       benefit of the service is realized in this State. If  
22       the benefit of the service is realized both within and  
23       without this State, the gross receipts from the sale  
24       shall be divided among those states in which the  
25       taxpayer is taxable in proportion to the benefit of  
26       service realized in each state. If the proportionate

1 benefit in this State cannot be determined, the sale  
2 shall be excluded from both the numerator and the  
3 denominator of the gross receipts factor.

4 (vii) Receipts from the issuance of travelers  
5 checks and money orders are from sources in this State  
6 if the checks and money orders are issued from a  
7 location within this State.

8 (viii) In the case of a financial organization that  
9 accepts deposits, receipts from investments and from  
10 money market instruments are apportioned to this State  
11 based on the ratio that the total deposits of the  
12 financial organization (including all members of the  
13 financial organization's unitary group) from this  
14 State, its residents, (including businesses with an  
15 office or other place of business in this State), and  
16 its political subdivisions, agencies, and  
17 instrumentalities bear to total deposits everywhere.  
18 For purposes of this subdivision, deposits must be  
19 attributed to this State under the preceding sentence,  
20 whether or not the deposits are accepted or maintained  
21 by the financial organization at locations within this  
22 State. In the case of a financial organization that  
23 does not accept deposits, receipts from investments in  
24 securities and from money market instruments shall be  
25 excluded from the numerator and the denominator of the  
26 gross receipts factor.



1           (4) As used in subparagraph (3), "deposit" includes but  
2           is not limited to:

3           (i) the unpaid balance of money or its equivalent  
4           received or held by a financial institution in the  
5           usual course of business and for which it has given or  
6           is obligated to give credit, either conditionally or  
7           unconditionally, to a commercial, checking, savings,  
8           time, or thrift account whether or not advance notice  
9           is required to withdraw the credited funds, or which is  
10           evidenced by its certificate of deposit, thrift  
11           certificate, investment certificate, or certificate of  
12           indebtedness, or other similar name, or a check or  
13           draft drawn against a deposit account and certified by  
14           the financial organization, or a letter of credit or a  
15           traveler's check on which the financial organization  
16           is primarily liable. However, without limiting the  
17           generality of the term "money or its equivalent", any  
18           such account or instrument must be regarded as  
19           evidencing the receipt of the equivalent of money when  
20           credited or issued in exchange for checks or drafts or  
21           for a promissory note upon which the person obtaining  
22           the credit or instrument is primarily or secondarily  
23           liable, or for a charge against a deposit account, or  
24           in settlement of checks, drafts, or other instruments  
25           forwarded to the bank for collection;

26           (ii) trust funds received or held by the financial

1       organization, whether held in the trust department or  
2       held or deposited in any other department of the  
3       financial organization;

4       (iii) money received or held by a financial  
5       organization, or the credit given for money or its  
6       equivalent received or held by a financial  
7       organization, in the usual course of business for a  
8       special or specific purpose, regardless of the legal  
9       relationship so established. Under this paragraph,  
10       "deposit" includes, but is not limited to, escrow  
11       funds, funds held as security for an obligation due to  
12       the financial organization or others, including funds  
13       held as dealers reserves, or for securities loaned by  
14       the financial organization, funds deposited by a  
15       debtor to meet maturing obligations, funds deposited  
16       as advance payment on subscriptions to United States  
17       government securities, funds held for distribution or  
18       purchase of securities, funds held to meet its  
19       acceptances or letters of credit, and withheld taxes.  
20       It does not include funds received by the financial  
21       organization for immediate application to the  
22       reduction of an indebtedness to the receiving  
23       financial organization, or under condition that the  
24       receipt of the funds immediately reduces or  
25       extinguishes the indebtedness;

26       (iv) outstanding drafts, including advice of

1           another financial organization, cashier's checks,  
2           money orders, or other officer's checks issued in the  
3           usual course of business for any purpose, but not  
4           including those issued in payment for services,  
5           dividends, or purchases or other costs or expenses of  
6           the financial organization itself; and

7           (v) money or its equivalent held as a credit  
8           balance by a financial organization on behalf of its  
9           customer if the entity is engaged in soliciting and  
10           holding such balances in the regular course of its  
11           business.

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

14           (i) Interest-bearing deposits, federal funds sold  
15           and securities purchased under agreements to resell,  
16           commercial paper, banker's acceptances, and purchased  
17           certificates of deposit and similar instruments to the  
18           extent that the instruments are reflected as assets  
19           under generally accepted accounting principles.

20           "Securities" means corporate stock, bonds, and  
21           other securities (including, for purposes of taxation  
22           of gains on securities and for purchases under  
23           agreements to resell, United States Treasury  
24           securities, obligations of United States government  
25           agencies and corporations, obligations of state and  
26           political subdivisions, the interest on which is

1 exempt from Illinois income tax), participations in  
2 securities backed by mortgages held by United States or  
3 state government agencies, loan-backed securities, and  
4 similar investments to the extent the investments are  
5 reflected as assets under generally accepted  
6 accounting principles.

7 (ii) For purposes of subparagraph (3), "money  
8 market instruments" shall include investments in  
9 investment partnerships, trusts, pools, funds,  
10 investment companies, or any similar entity in  
11 proportion to the investment of the entity in money  
12 market instruments, and "securities" shall include  
13 investments in investment partnerships, trusts, pools,  
14 funds, investment companies, or any similar entity in  
15 proportion to the investment of the entity in  
16 securities.

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

21 (1) Such business income (other than that derived from  
22 transportation by pipeline) shall be apportioned to this  
23 State by multiplying such income by a fraction, the  
24 numerator of which is the revenue miles of the person in  
25 this State, and the denominator of which is the revenue  
26 miles of the person everywhere. For purposes of this

1 paragraph, a revenue mile is the transportation of 1  
2 passenger or 1 net ton of freight the distance of 1 mile  
3 for a consideration. Where a person is engaged in the  
4 transportation of both passengers and freight, the  
5 fraction above referred to shall be determined by means of  
6 an average of the passenger revenue mile fraction and the  
7 freight revenue mile fraction, weighted to reflect the  
8 person's

9 (A) relative railway operating income from total  
10 passenger and total freight service, as reported to the  
11 Interstate Commerce Commission, in the case of  
12 transportation by railroad, and

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

16 (2) Such business income derived from transportation  
17 by pipeline shall be apportioned to this State by  
18 multiplying such income by a fraction, the numerator of  
19 which is the revenue miles of the person in this State, and  
20 the denominator of which is the revenue miles of the person  
21 everywhere. For the purposes of this paragraph, a revenue  
22 mile is the transportation by pipeline of 1 barrel of oil,  
23 1,000 cubic feet of gas, or of any specified quantity of  
24 any other substance, the distance of 1 mile for a  
25 consideration.

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

1       2008, business income derived from providing  
2       transportation services other than airline services shall  
3       be apportioned to this State by using a fraction, (a) the  
4       numerator of which shall be (i) all receipts from any  
5       movement or shipment of people, goods, mail, oil, gas, or  
6       any other substance (other than by airline) that both  
7       originates and terminates in this State, plus (ii) that  
8       portion of the person's gross receipts from movements or  
9       shipments of people, goods, mail, oil, gas, or any other  
10       substance (other than by airline) passing through, into, or  
11       out of this State, that is determined by the ratio that the  
12       miles traveled in this State bears to total miles from  
13       point of origin to point of destination and (b) the  
14       denominator of which shall be all revenue derived from the  
15       movement or shipment of people, goods, mail, oil, gas, or  
16       any other substance (other than by airline). If a person  
17       derives business income from activities in addition to the  
18       provision of transportation services (other than by  
19       airline), this subsection shall apply only to its business  
20       income from transportation services and its other business  
21       income shall be apportioned to this State according to the  
22       applicable provisions of this Section.

23       (4) For taxable years ending on or after December 31,  
24       2008, business income derived from providing airline  
25       services shall be apportioned to this State by using a  
26       fraction, (a) the numerator of which shall be arrivals of

1       aircraft to and departures from this State weighted as to  
2       cost of aircraft by type and (b) the denominator of which  
3       shall be total arrivals and departures of aircraft weighted  
4       as to cost of aircraft by type. If a person derives  
5       business income from activities in addition to the  
6       provision of airline services, this subsection shall apply  
7       only to its business income from airline services and its  
8       other business income shall be apportioned to this State  
9       under the applicable provisions of this Section.

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

16       (f) Alternative allocation. If the allocation and  
17 apportionment provisions of subsections (a) through (e) and of  
18 subsection (h) do not fairly represent the extent of a person's  
19 business activity in this State, the person may petition for,  
20 or the Director may, without a petition, permit or require, in  
21 respect of all or any part of the person's business activity,  
22 if reasonable:

23             (1) Separate accounting;

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

25             (3) The inclusion of one or more additional factors

26       which will fairly represent the person's business

1 activities in this State; or

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

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

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

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

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

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

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



1 (Source: P.A. 94-247, eff. 1-1-06.)

2 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

3 Sec. 502. Returns and notices.

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

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

8 (2) in the case of a resident or in the case of a  
9 corporation which is qualified to do business in this  
10 State, for which such person is required to make a federal  
11 income tax return, regardless of whether such person is  
12 liable for a tax imposed by this Act. However, this  
13 paragraph shall not require a resident to make a return if  
14 such person has an Illinois base income of the basic amount  
15 in Section 204(b) or less and is either claimed as a  
16 dependent on another person's tax return under the Internal  
17 Revenue Code of 1986, or is claimed as a dependent on  
18 another person's tax return under this Act.

19 Notwithstanding the provisions of paragraph (1), a  
20 nonresident whose Illinois income tax liability under  
21 subsections (a), (b), (c), and (d) of Section 201 of this Act  
22 is paid in full after taking into account the credits allowed  
23 under subsection (f) of this Section or allowed under Section  
24 709.5 of this Act shall not be required to file a return under  
25 this subsection (a).

1 (b) Fiduciaries and receivers.

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

6 (2) Individuals under a disability. If an individual is  
7 unable to make a return or notice required under this Act,  
8 the return or notice required of such individual shall be  
9 made by his duly authorized agent, guardian, fiduciary or  
10 other person charged with the care of the person or  
11 property of such individual.

12 (3) Estates and trusts. Returns or notices required of  
13 an estate or a trust shall be made by the fiduciary  
14 thereof.

15 (4) Receivers, trustees and assignees for  
16 corporations. In a case where a receiver, trustee in  
17 bankruptcy, or assignee, by order of a court of competent  
18 jurisdiction, by operation of law, or otherwise, has  
19 possession of or holds title to all or substantially all  
20 the property or business of a corporation, whether or not  
21 such property or business is being operated, such receiver,  
22 trustee, or assignee shall make the returns and notices  
23 required of such corporation in the same manner and form as  
24 corporations are required to make such returns and notices.

25 (c) Joint returns by husband and wife.

26 (1) Except as provided in paragraph (3), if a husband

1 and wife file a joint federal income tax return for a  
2 taxable year they shall file a joint return under this Act  
3 for such taxable year and their liabilities shall be joint  
4 and several, but if the federal income tax liability of  
5 either spouse is determined on a separate federal income  
6 tax return, they shall file separate returns under this  
7 Act.

8 (2) If neither spouse is required to file a federal  
9 income tax return and either or both are required to file a  
10 return under this Act, they may elect to file separate or  
11 joint returns and pursuant to such election their  
12 liabilities shall be separate or joint and several.

13 (3) If either husband or wife is a resident and the  
14 other is a nonresident, they shall file separate returns in  
15 this State on such forms as may be required by the  
16 Department in which event their tax liabilities shall be  
17 separate; but they may elect to determine their joint net  
18 income and file a joint return as if both were residents  
19 and in such case, their liabilities shall be joint and  
20 several.

21 (4) Innocent spouses.

22 (A) However, for tax liabilities arising and paid  
23 prior to August 13, 1999, an innocent spouse shall be  
24 relieved of liability for tax (including interest and  
25 penalties) for any taxable year for which a joint  
26 return has been made, upon submission of proof that the

1 Internal Revenue Service has made a determination  
2 under Section 6013(e) of the Internal Revenue Code, for  
3 the same taxable year, which determination relieved  
4 the spouse from liability for federal income taxes. If  
5 there is no federal income tax liability at issue for  
6 the same taxable year, the Department shall rely on the  
7 provisions of Section 6013(e) to determine whether the  
8 person requesting innocent spouse abatement of tax,  
9 penalty, and interest is entitled to that relief.

10 (B) For tax liabilities arising on and after August  
11 13, 1999 or which arose prior to that date, but remain  
12 unpaid as of that date, if an individual who filed a  
13 joint return for any taxable year has made an election  
14 under this paragraph, the individual's liability for  
15 any tax shown on the joint return shall not exceed the  
16 individual's separate return amount and the  
17 individual's liability for any deficiency assessed for  
18 that taxable year shall not exceed the portion of the  
19 deficiency properly allocable to the individual. For  
20 purposes of this paragraph:

21 (i) An election properly made pursuant to  
22 Section 6015 of the Internal Revenue Code shall  
23 constitute an election under this paragraph,  
24 provided that the election shall not be effective  
25 until the individual has notified the Department  
26 of the election in the form and manner prescribed

1 by the Department.

2 (ii) If no election has been made under Section  
3 6015, the individual may make an election under  
4 this paragraph in the form and manner prescribed by  
5 the Department, provided that no election may be  
6 made if the Department finds that assets were  
7 transferred between individuals filing a joint  
8 return as part of a scheme by such individuals to  
9 avoid payment of Illinois income tax and the  
10 election shall not eliminate the individual's  
11 liability for any portion of a deficiency  
12 attributable to an error on the return of which the  
13 individual had actual knowledge as of the date of  
14 filing.

15 (iii) In determining the separate return  
16 amount or portion of any deficiency attributable  
17 to an individual, the Department shall follow the  
18 provisions in subsections (c) and (d) of Section  
19 6015 of the Internal Revenue Code.

20 (iv) In determining the validity of an  
21 individual's election under subparagraph (ii) and  
22 in determining an electing individual's separate  
23 return amount or portion of any deficiency under  
24 subparagraph (iii), any determination made by the  
25 Secretary of the Treasury, by the United States Tax  
26 Court on petition for review of a determination by

1           the Secretary of the Treasury, or on appeal from  
2           the United States Tax Court under Section 6015 of  
3           the Internal Revenue Code regarding criteria for  
4           eligibility or under subsection (d) of Section  
5           6015 of the Internal Revenue Code regarding the  
6           allocation of any item of income, deduction,  
7           payment, or credit between an individual making  
8           the federal election and that individual's spouse  
9           shall be conclusively presumed to be correct. With  
10          respect to any item that is not the subject of a  
11          determination by the Secretary of the Treasury or  
12          the federal courts, in any proceeding involving  
13          this subsection, the individual making the  
14          election shall have the burden of proof with  
15          respect to any item except that the Department  
16          shall have the burden of proof with respect to  
17          items in subdivision (ii).

18                 (v) Any election made by an individual under  
19                 this subsection shall apply to all years for which  
20                 that individual and the spouse named in the  
21                 election have filed a joint return.

22                 (vi) After receiving a notice that the federal  
23                 election has been made or after receiving an  
24                 election under subdivision (ii), the Department  
25                 shall take no collection action against the  
26                 electing individual for any liability arising from

1 a joint return covered by the election until the  
2 Department has notified the electing individual in  
3 writing that the election is invalid or of the  
4 portion of the liability the Department has  
5 allocated to the electing individual. Within 60  
6 days (150 days if the individual is outside the  
7 United States) after the issuance of such  
8 notification, the individual may file a written  
9 protest of the denial of the election or of the  
10 Department's determination of the liability  
11 allocated to him or her and shall be granted a  
12 hearing within the Department under the provisions  
13 of Section 908. If a protest is filed, the  
14 Department shall take no collection action against  
15 the electing individual until the decision  
16 regarding the protest has become final under  
17 subsection (d) of Section 908 or, if  
18 administrative review of the Department's decision  
19 is requested under Section 1201, until the  
20 decision of the court becomes final.

21 (d) Partnerships. Every partnership having any base income  
22 allocable to this State in accordance with section 305(c) shall  
23 retain information concerning all items of income, gain, loss  
24 and deduction; the names and addresses of all of the partners,  
25 or names and addresses of members of a limited liability  
26 company, or other persons who would be entitled to share in the

1 base income of the partnership if distributed; the amount of  
2 the distributive share of each; and such other pertinent  
3 information as the Department may by forms or regulations  
4 prescribe. The partnership shall make that information  
5 available to the Department when requested by the Department.

6 (e) For taxable years ending on or after December 31, 1985,  
7 and before December 31, 1993, taxpayers that are corporations  
8 (other than Subchapter S corporations) having the same taxable  
9 year and that are members of the same unitary business group  
10 may elect to 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 the election to  
13 file the original return, extension, claim for refund,  
14 assessment, collection and payment and determination of the  
15 group's tax liability under this Act. This subsection (e) does  
16 not permit the election to be made for some, but not all, of  
17 the purposes enumerated above. For taxable years ending on or  
18 after December 31, 1987, corporate members (other than  
19 Subchapter S corporations) of the same unitary business group  
20 making this subsection (e) election are not required to have  
21 the same taxable year.

22 For taxable years ending on or after December 31, 1993,  
23 taxpayers that are corporations (other than Subchapter S  
24 corporations) and that are members of the same unitary business  
25 group shall be treated as one taxpayer for purposes of any  
26 original return, amended return which includes the same



1 taxpayers of the unitary group which joined in filing the  
2 original return, extension, claim for refund, assessment,  
3 collection and payment and determination of the group's tax  
4 liability under this Act.

5 (f) The Department may promulgate regulations to permit  
6 nonresident individual partners of the same partnership,  
7 nonresident Subchapter S corporation shareholders of the same  
8 Subchapter S corporation, and nonresident individuals  
9 transacting an insurance business in Illinois under a Lloyds  
10 plan of operation, and nonresident individual members of the  
11 same limited liability company that is treated as a partnership  
12 under Section 1501 (a)(16) of this Act, to file composite  
13 individual income tax returns reflecting the composite income  
14 of such individuals allocable to Illinois and to make composite  
15 individual income tax payments. The Department may by  
16 regulation also permit such composite returns to include the  
17 income tax owed by Illinois residents attributable to their  
18 income from partnerships, Subchapter S corporations, insurance  
19 businesses organized under a Lloyds plan of operation, or  
20 limited liability companies that are treated as partnership  
21 under Section 1501(a)(16) of this Act, in which case such  
22 Illinois residents will be permitted to claim credits on their  
23 individual returns for their shares of the composite tax  
24 payments. This paragraph of subsection (f) applies to taxable  
25 years ending on or after December 31, 1987.

26 For taxable years ending on or after December 31, 1999, the

1 Department may, by regulation, also permit any persons  
2 transacting an insurance business organized under a Lloyds plan  
3 of operation to file composite returns reflecting the income of  
4 such persons allocable to Illinois and the tax rates applicable  
5 to such persons under Section 201 and to make composite tax  
6 payments and shall, by regulation, also provide that the income  
7 and apportionment factors attributable to the transaction of an  
8 insurance business organized under a Lloyds plan of operation  
9 by any person joining in the filing of a composite return  
10 shall, for purposes of allocating and apportioning income under  
11 Article 3 of this Act and computing net income under Section  
12 202 of this Act, be excluded from any other income and  
13 apportionment factors of that person or of any unitary business  
14 group, as defined in subdivision (a)(27) of Section 1501, to  
15 which that person may belong.

16 For taxable years ending on or after December 31, 2008,  
17 every nonresident shall be allowed a credit against his or her  
18 liability under subsections (a) and (b) of Section 201 for any  
19 amount of tax reported on a composite return and paid on his or  
20 her behalf under this subsection (f). Residents (other than  
21 persons transacting an insurance business organized under a  
22 Lloyds plan of operation) may claim a credit for taxes reported  
23 on a composite return and paid on their behalf under this  
24 subsection (f) only as permitted by the Department by rule.

25 (f-5) For taxable years ending on or after December 31,  
26 2008, the Department may adopt rules to provide that, when a

1 partnership or Subchapter S corporation has made an error in  
2 determining the amount of any item of income, deduction,  
3 addition, subtraction, or credit required to be reported on its  
4 return that affects the liability imposed under this Act on a  
5 partner or shareholder, the partnership or Subchapter S  
6 corporation may report the changes in liabilities of its  
7 partners or shareholders and claim a refund of the resulting  
8 overpayments, or pay the resulting underpayments, on behalf of  
9 its partners and shareholders.

10 (g) The Department may adopt rules to authorize the  
11 electronic filing of any return required to be filed under this  
12 Section.

13 (Source: P.A. 94-1074, eff. 12-26-06.)

14 (35 ILCS 5/709.5 new)

15 Sec. 709.5. Withholding by partnerships, Subchapter S  
16 corporations, and trusts.

17 (a) In general. For each taxable year ending on or after  
18 December 31, 2008, every partnership (other than a publicly  
19 traded partnership under Section 7704 of the Internal Revenue  
20 Code), Subchapter S corporation, and trust must withhold from  
21 each nonresident partner, shareholder, or beneficiary (other  
22 than a partner, shareholder, or beneficiary included on a  
23 composite return filed by the partnership or Subchapter S  
24 corporation for the taxable year under subsection (f) of  
25 Section 502 of this Act) an amount equal to the distributable

1 share of the business income of the partnership, Subchapter S  
2 corporation, or trust apportionable to Illinois of that  
3 partner, shareholder, or beneficiary under Sections 702 and 704  
4 and Subchapter S of the Internal Revenue Code, whether or not  
5 distributed, multiplied by the applicable rates of tax for that  
6 partner or shareholder under subsections (a) through (d) of  
7 Section 201 of this Act.

8 (b) Credit for taxes withheld. Any amount withheld under  
9 subsection (a) of this Section and paid to the Department shall  
10 be treated as a payment of the estimated tax liability or of  
11 the liability for withholding under this Section of the  
12 partner, shareholder, or beneficiary to whom the income is  
13 distributable for the taxable year in which that person  
14 incurred a liability under this Act with respect to that  
15 income.

16 (35 ILCS 5/711) (from Ch. 120, par. 7-711)

17 Sec. 711. Payor's Return and Payment of Tax Withheld. (a)  
18 In general. Every payor required to deduct and withhold tax  
19 under Section 710 ~~(and until January 1, 1989, Sections 708 and~~  
20 ~~709)~~ shall be subject to the same reporting requirements  
21 regarding taxes withheld and the same monthly and quarter  
22 monthly (weekly) payment requirements as an employer subject to  
23 the provisions of Section 701. For purposes of monthly and  
24 quarter monthly (weekly) payments, the total tax withheld under  
25 Sections 701, ~~708, 709~~ and 710 shall be considered in the

1 aggregate.

2 (a-5) Every partnership, Subchapter S corporation, or  
3 trust required to withhold tax under Section 709.5 shall report  
4 the amounts withheld and the partners, shareholders, or  
5 beneficiaries from whom the amounts were withheld, and pay over  
6 the amount withheld, no later than the due date (without regard  
7 to extensions) of the tax return of the partnership, Subchapter  
8 S corporation, or trust for the taxable year.

9 (b) Information statement. Every payor required to deduct  
10 and withhold tax under Section 710 ~~(and until January 1, 1989,~~  
11 ~~Sections 708 and 709)~~ shall furnish in duplicate to each party  
12 entitled to the credit for such withholding under subsection  
13 (b) of Section 709.5 ~~(c) of Section 708, subsection (c) of~~  
14 ~~Section 709,~~ and subsection (b) of Section 710, respectively,  
15 on or before January 31 of the succeeding calendar year for  
16 amounts withheld under Section 710 or the due date (without  
17 regard to extensions) of the return of the partnership,  
18 Subchapter S corporation, or trust for the taxable year for  
19 amounts withheld under Section 709.5 for the taxable year, a  
20 written statement in such form as the Department may by  
21 regulation prescribe showing the amount of the payments, the  
22 amount deducted and withheld as tax, and such other information  
23 as the Department may prescribe. A copy of such statement shall  
24 be filed by the party entitled to the credit for the  
25 withholding under subsection (b) of Section 709.5 ~~(c) of~~  
26 ~~Section 708, subsection (c) of Section 709,~~ or subsection (b)

1 of Section 710 with his return for the taxable year to which it  
2 relates.

3 (Source: P.A. 85-299; 85-982.)

4 (35 ILCS 5/712) (from Ch. 120, par. 7-712)

5 Sec. 712. Payor's Liability For Withheld Taxes. Every payor  
6 who deducts and withholds or is required to deduct and withhold  
7 tax under Sections 709.5 or Section 710 ~~(and until January 1,~~  
8 ~~1989, Sections 708 and 709)~~ is liable for such tax. For  
9 purposes of assessment and collection, any amount withheld or  
10 required to be withheld and paid over to the Department, and  
11 any penalties and interest with respect thereto, shall be  
12 considered the tax of the payor. Any amount of tax actually  
13 deducted and withheld under Sections 709.5 or Section 710 ~~(and~~  
14 ~~until January 1, 1989, Sections 708 and 709)~~ shall be held to  
15 be a special fund in trust for the Department. No payee shall  
16 have any right of action against his payor in respect of any  
17 money deducted and withheld and paid over to the Department in  
18 compliance or in intended compliance with Sections and 709.5 or  
19 ~~Section 710~~ (and until January 1, 1989, Sections 708 and 709).

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

21 (35 ILCS 5/713) (from Ch. 120, par. 7-713)

22 Sec. 713. Payor's Failure To Withhold. If a payor fails to  
23 deduct and withhold any amount of tax as required under  
24 Sections and 709.5 or Section 710 ~~(and until January 1, 1989,~~

1 ~~Sections 708 and 709~~ and thereafter the tax on account of  
2 which such amount was required to be deducted and withheld is  
3 paid, such amount of tax shall not be collected from the payor,  
4 but the payor shall not be relieved from liability for  
5 penalties or interest otherwise applicable in respect of such  
6 failure to deduct and withhold. For purposes of this Section,  
7 the tax on account of which an amount is required to be  
8 deducted and withheld is the tax of the individual or  
9 individuals who are entitled to a credit under subsection (b)  
10 of Section 709.5 ~~(c) of Section 708, subsection (c) of Section~~  
11 ~~709,~~ or subsection (b) of Section 710 for the withheld tax.

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

13 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

14 Sec. 804. Failure to Pay Estimated Tax.

15 (a) In general. In case of any underpayment of estimated  
16 tax by a taxpayer, except as provided in subsection (d) or (e),  
17 the taxpayer shall be liable to a penalty in an amount  
18 determined at the rate prescribed by Section 3-3 of the Uniform  
19 Penalty and Interest Act upon the amount of the underpayment  
20 (determined under subsection (b)) for each required  
21 installment.

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

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

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

3           (c) Amount of Required Installments.

4           (1) Amount.

5           (A) In General. Except as provided in paragraph  
6 (2), the amount of any required installment shall be  
7 25% of the required annual payment.

8           (B) Required Annual Payment. For purposes of  
9 subparagraph (A), the term "required annual payment"  
10 means the lesser of

11           (i) 90% of the tax shown on the return for the  
12 taxable year, or if no return is filed, 90% of the  
13 tax for such year, or

14           (ii) 100% of the tax shown on the return of the  
15 taxpayer for the preceding taxable year if a return  
16 showing a liability for tax was filed by the  
17 taxpayer for the preceding taxable year and such  
18 preceding year was a taxable year of 12 months.

19           (2) Lower Required Installment where Annualized Income  
20 Installment is Less Than Amount Determined Under Paragraph  
21 (1).

22           (A) In General. In the case of any required  
23 installment if a taxpayer establishes that the  
24 annualized income installment is less than the amount  
25 determined under paragraph (1),

26           (i) the amount of such required installment



1 shall be the annualized income installment, and  
 2 (ii) any reduction in a required installment  
 3 resulting from the application of this  
 4 subparagraph shall be recaptured by increasing the  
 5 amount of the next required installment determined  
 6 under paragraph (1) by the amount of such  
 7 reduction, and by increasing subsequent required  
 8 installments to the extent that the reduction has  
 9 not previously been recaptured under this clause.

10 (B) Determination of Annualized Income  
 11 Installment. In the case of any required installment,  
 12 the annualized income installment is the excess, if  
 13 any, of

14 (i) an amount equal to the applicable  
 15 percentage of the tax for the taxable year computed  
 16 by placing on an annualized basis the net income  
 17 for months in the taxable year ending before the  
 18 due date for the installment, over

19 (ii) the aggregate amount of any prior  
 20 required installments for the taxable year.

21 (C) Applicable Percentage.

22	In the case of the following	The applicable
23	required installments:	percentage is:
24	1st.....	22.5%
25	2nd.....	45%
26	3rd.....	67.5%

1 4th..... 90%

2 (D) Annualized Net Income; Individuals. For  
3 individuals, net income shall be placed on an  
4 annualized basis by:

5 (i) multiplying by 12, or in the case of a  
6 taxable year of less than 12 months, by the number  
7 of months in the taxable year, the net income  
8 computed without regard to the standard exemption  
9 for the months in the taxable year ending before  
10 the month in which the installment is required to  
11 be paid;

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

15 (iii) deducting from such amount the standard  
16 exemption allowable for the taxable year, such  
17 standard exemption being determined as of the last  
18 date prescribed for payment of the installment.

19 (E) Annualized Net Income; Corporations. For  
20 corporations, net income shall be placed on an  
21 annualized basis by multiplying by 12 the taxable  
22 income

23 (i) for the first 3 months of the taxable year,  
24 in the case of the installment required to be paid  
25 in the 4th month,

26 (ii) for the first 3 months or for the first 5

1 months of the taxable year, in the case of the  
2 installment required to be paid in the 6th month,

3 (iii) for the first 6 months or for the first 8  
4 months of the taxable year, in the case of the  
5 installment required to be paid in the 9th month,  
6 and

7 (iv) for the first 9 months or for the first 11  
8 months of the taxable year, in the case of the  
9 installment required to be paid in the 12th month  
10 of the taxable year,

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

14 (d) Exceptions. Notwithstanding the provisions of the  
15 preceding subsections, the penalty imposed by subsection (a)  
16 shall not be imposed if the taxpayer was not required to file  
17 an Illinois income tax return for the preceding taxable year,  
18 or, for individuals, if the taxpayer had no tax liability for  
19 the preceding taxable year and such year was a taxable year of  
20 12 months. The penalty imposed by subsection (a) shall also not  
21 be imposed on any underpayments of estimated tax due before the  
22 effective date of this amendatory Act of 1998 which  
23 underpayments are solely attributable to the change in  
24 apportionment from subsection (a) to subsection (h) of Section  
25 304. The provisions of this amendatory Act of 1998 apply to tax  
26 years ending on or after December 31, 1998.

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

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

10 (g) Application of Section in case of tax withheld under  
11 Article 7 ~~on compensation~~. For purposes of applying this  
12 Section:

13 (1) in the case of an individual, tax withheld from  
14 compensation ~~under Article 7~~ for the taxable year shall be  
15 deemed a payment of estimated tax, and an equal part of  
16 such amount shall be deemed paid on each installment date  
17 for such taxable year, unless the taxpayer establishes the  
18 dates on which all amounts were actually withheld, in which  
19 case the amounts so withheld shall be deemed payments of  
20 estimated tax on the dates on which such amounts were  
21 actually withheld; -

22 (2) amounts timely paid by a partnership, Subchapter S  
23 corporation, or trust on behalf of a partner, shareholder,  
24 or beneficiary pursuant to subsection (f) of Section 502 or  
25 Section 709.5 and claimed as a payment of estimated tax  
26 shall be deemed a payment of estimated tax made on the last

1        day of the taxable year of the partnership, Subchapter S  
2        corporation, or trust for which the income from the  
3        withholding is made was computed; and

4            (3) all other amounts pursuant to Article 7 shall be  
5        deemed a payment of estimated tax on the date the payment  
6        is made to the taxpayer of the amount from which the tax is  
7        withheld.

8        (g-5) Amounts withheld under the State Salary and Annuity  
9        Withholding Act. An individual who has amounts withheld under  
10       paragraph (10) of Section 4 of the State Salary and Annuity  
11       Withholding Act may elect to have those amounts treated as  
12       payments of estimated tax made on the dates on which those  
13       amounts are actually withheld.

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

17       The changes in this Section made by Public Act 84-127 shall  
18       apply to taxable years ending on or after January 1, 1986.

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

20       (35 ILCS 5/911) (from Ch. 120, par. 9-911)

21       Sec. 911. Limitations on Claims for Refund.

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

23            (1) A claim for refund shall be filed not later than 3  
24       years after the date the return was filed (in the case of  
25       returns required under Article 7 of this Act respecting any

1 amounts withheld as tax, not later than 3 years after the  
2 15th day of the 4th month following the close of the  
3 calendar year in which such withholding was made), or one  
4 year after the date the tax was paid, whichever is the  
5 later; and

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

9 (b) Federal changes.

10 (1) In general. In any case where notification of an  
11 alteration is required by Section 506(b), a claim for  
12 refund may be filed within 2 years after the date on which  
13 such notification was due (regardless of whether such  
14 notice was given), but the amount recoverable pursuant to a  
15 claim filed under this Section shall be limited to the  
16 amount of any overpayment resulting under this Act from  
17 recomputation of the taxpayer's net income, net loss, or  
18 Article 2 credits for the taxable year after giving effect  
19 to the item or items reflected in the alteration required  
20 to be reported.

21 (2) Tentative carryback adjustments paid before  
22 January 1, 1974. If, as the result of the payment before  
23 January 1, 1974 of a federal tentative carryback  
24 adjustment, a notification of an alteration is required  
25 under Section 506(b), a claim for refund may be filed at  
26 any time before January 1, 1976, but the amount recoverable

1       pursuant to a claim filed under this Section shall be  
2       limited to the amount of any overpayment resulting under  
3       this Act from recomputation of the taxpayer's base income  
4       for the taxable year after giving effect to the federal  
5       alteration resulting from the tentative carryback  
6       adjustment irrespective of any limitation imposed in  
7       paragraph (1) of this subsection.

8       (c) Extension by agreement. Where, before the expiration of  
9       the time prescribed in this section for the filing of a claim  
10      for refund, both the Department and the claimant shall have  
11      consented in writing to its filing after such time, such claim  
12      may be filed at any time prior to the expiration of the period  
13      agreed upon. The period so agreed upon may be extended by  
14      subsequent agreements in writing made before the expiration of  
15      the period previously agreed upon. In the case of a taxpayer  
16      who is a partnership, Subchapter S corporation, or trust and  
17      who enters into an agreement with the Department pursuant to  
18      this subsection on or after January 1, 2003, a claim for refund  
19      may be issued to the partners, shareholders, or beneficiaries  
20      of the taxpayer at any time prior to the expiration of the  
21      period agreed upon. Any refund allowed pursuant to the claim,  
22      however, shall be limited to the amount of any overpayment of  
23      tax due under this Act that results from recomputation of items  
24      of income, deduction, credits, or other amounts of the taxpayer  
25      that are taken into account by the partner, shareholder, or  
26      beneficiary in computing its liability under this Act.

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

2 (1) Limit where claim filed within 3-year period. If  
3 the claim was filed by the claimant during the 3-year  
4 period prescribed in subsection (a), the amount of the  
5 credit or refund shall not exceed the portion of the tax  
6 paid within the period, immediately preceding the filing of  
7 the claim, equal to 3 years plus the period of any  
8 extension of time for filing the return.

9 (2) Limit where claim not filed within 3-year period.  
10 If the claim was not filed within such 3-year period, the  
11 amount of the credit or refund shall not exceed the portion  
12 of the tax paid during the one year immediately preceding  
13 the filing of the claim.

14 (e) Time return deemed filed. For purposes of this section  
15 a tax return filed before the last day prescribed by law for  
16 the filing of such return (including any extensions thereof)  
17 shall be deemed to have been filed on such last day.

18 (f) No claim for refund based on the taxpayer's taking a  
19 credit for estimated tax payments as provided by Section  
20 601(b)(2) or for any amount paid by a taxpayer pursuant to  
21 Section 602(a) or for any amount of credit for tax withheld  
22 pursuant to Article 7 ~~Section 701~~ may be filed more than 3  
23 years after the due date, as provided by Section 505, of the  
24 return which was required to be filed relative to the taxable  
25 year for which the payments were made or for which the tax was  
26 withheld. The changes in this subsection (f) made by this



1 amendatory Act of 1987 shall apply to all taxable years ending  
2 on or after December 31, 1969.

3 (g) Special Period of Limitation with Respect to Net Loss  
4 Carrybacks. If the claim for refund relates to an overpayment  
5 attributable to a net loss carryback as provided by Section  
6 207, in lieu of the 3 year period of limitation prescribed in  
7 subsection (a), the period shall be that period which ends 3  
8 years after the time prescribed by law for filing the return  
9 (including extensions thereof) for the taxable year of the net  
10 loss which results in such carryback (or, on and after August  
11 13, 1999, with respect to a change in the carryover of an  
12 Article 2 credit to a taxable year resulting from the carryback  
13 of a Section 207 loss incurred in a taxable year beginning on  
14 or after January 1, 2000, the period shall be that period that  
15 ends 3 years after the time prescribed by law for filing the  
16 return (including extensions of that time) for that subsequent  
17 taxable year), or the period prescribed in subsection (c) in  
18 respect of such taxable year, whichever expires later. In the  
19 case of such a claim, the amount of the refund may exceed the  
20 portion of the tax paid within the period provided in  
21 subsection (d) to the extent of the amount of the overpayment  
22 attributable to such carryback. On and after August 13, 1999,  
23 if the claim for refund relates to an overpayment attributable  
24 to the carryover of an Article 2 credit, or of a Section 207  
25 loss, earned, incurred (in a taxable year beginning on or after  
26 January 1, 2000), or used in a year for which a notification of

1 a change affecting federal taxable income must be filed under  
2 subsection (b) of Section 506, the claim may be filed within  
3 the period prescribed in paragraph (1) of subsection (b) in  
4 respect of the year for which the notification is required. In  
5 the case of such a claim, the amount of the refund may exceed  
6 the portion of the tax paid within the period provided in  
7 subsection (d) to the extent of the amount of the overpayment  
8 attributable to the recomputation of the taxpayer's Article 2  
9 credits, or Section 207 loss, earned, incurred, or used in the  
10 taxable year for which the notification is given.

11 (h) Claim for refund based on net loss. On and after August  
12 23, 2002, no claim for refund shall be allowed to the extent  
13 the refund is the result of an amount of net loss incurred in  
14 any taxable year ending prior to December 31, 2002 under  
15 Section 207 of this Act that was not reported to the Department  
16 within 3 years of the due date (including extensions) of the  
17 return for the loss year on either the original return filed by  
18 the taxpayer or on amended return or to the extent that the  
19 refund is the result of an amount of net loss incurred in any  
20 taxable year under Section 207 for which no return was filed  
21 within 3 years of the due date (including extensions) of the  
22 return for the loss year.

23 (Source: P.A. 94-836, eff. 6-6-06.)

24 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

25 Sec. 1501. Definitions.

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

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

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

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

20 (4) Corporation. The term "corporation" includes  
21 associations, joint-stock companies, insurance companies  
22 and cooperatives. Any entity, including a limited  
23 liability company formed under the Illinois Limited  
24 Liability Company Act, shall be treated as a corporation if  
25 it is so classified for federal income tax purposes. For  
26 taxable years ending on or after December 31, 2008, a real

1       estate investment trust is treated as a corporation for the  
2       purposes of this Act.

3           (5) Department. The term "Department" means the  
4       Department of Revenue of this State.

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

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

10          (8) Financial organization.

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

1           (B) For purposes of subparagraph (A) of this  
2 paragraph, the term "bank" includes (i) any entity that  
3 is regulated by the Comptroller of the Currency under  
4 the National Bank Act, or by the Federal Reserve Board,  
5 or by the Federal Deposit Insurance Corporation and  
6 (ii) any federally or State chartered bank operating as  
7 a credit card bank.

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

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

20           (a) a retail installment contract or  
21 retail charge agreement within the meaning of  
22 the Sales Finance Agency Act, the Retail  
23 Installment Sales Act, or the Motor Vehicle  
24 Retail Installment Sales Act;

25           (b) an installment, charge, credit, or  
26 similar contract or agreement arising from the

1 sale of tangible personal property or services  
2 in a transaction involving a deferred payment  
3 price payable in one or more installments  
4 subsequent to the sale; or

5 (c) the outstanding balance of a contract  
6 or agreement described in provisions (a) or (b)  
7 of this item (i).

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

16 (ii) A corporation meeting each of the  
17 following criteria:

18 (a) the corporation must be a member of an  
19 "affiliated group" within the meaning of  
20 Section 1504(a) of the Internal Revenue Code,  
21 determined without regard to Section 1504(b)  
22 of the Internal Revenue Code;

23 (b) more than 50% of the gross income of  
24 the corporation for the taxable year must be  
25 interest income derived from qualifying loans.  
26 A "qualifying loan" is a loan made to a member

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

26 (c) the total of all shareholder's equity

1 (including, without limitation, paid-in  
2 capital on common and preferred stock and  
3 retained earnings) of the corporation plus the  
4 total of all of its loans, advances, and other  
5 obligations payable or owed to members of its  
6 affiliated group may not exceed 20% of the  
7 total assets of the corporation at any time  
8 during the tax year; and

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

15 This amendatory Act of the 91st General Assembly is  
16 declaratory of existing law.

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



1 organization" that engages in any transaction with an  
2 affiliate shall be a "financial organization" for all  
3 purposes of this Act.

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

26 (F) Finance Leases. For purposes of this

1 subsection, a finance lease shall be treated as a loan  
2 or other extension of credit, rather than as a lease,  
3 regardless of how the transaction is characterized for  
4 any other purpose, including the purposes of any  
5 regulatory agency to which the lessor is subject. A  
6 finance lease is any transaction in the form of a lease  
7 in which the lessee is treated as the owner of the  
8 leased asset entitled to any deduction for  
9 depreciation allowed under Section 167 of the Internal  
10 Revenue Code.

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

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

18 (11) Internal Revenue Code. The term "Internal Revenue  
19 Code" means the United States Internal Revenue Code of 1954  
20 or any successor law or laws relating to federal income  
21 taxes in effect for the taxable year.

22 (11.5) Investment partnership.

23 (A) The term "investment partnership" means any  
24 entity that is treated as a partnership for federal  
25 income tax purposes that meets the following  
26 requirements:

1           (i) no less than 90% of the partnership's cost  
2 of its total assets consists of qualifying  
3 investment securities, deposits at banks or other  
4 financial institutions, and office space and  
5 equipment reasonably necessary to carry on its  
6 activities as an investment partnership;

7           (ii) no less than 90% of its gross income  
8 consists of interest, dividends, and gains from  
9 the sale or exchange of qualifying investment  
10 securities; and

11           (iii) the partnership is not a dealer in  
12 qualifying investment securities.

13           (B) For purposes of this paragraph (11.5), the term  
14 "qualifying investment securities" includes all of the  
15 following:

16           (i) common stock, including preferred or debt  
17 securities convertible into common stock, and  
18 preferred stock;

19           (ii) bonds, debentures, and other debt  
20 securities;

21           (iii) foreign and domestic currency deposits  
22 secured by federal, state, or local governmental  
23 agencies;

24           (iv) mortgage or asset-backed securities  
25 secured by federal, state, or local governmental  
26 agencies;

1           (v) repurchase agreements and loan  
2 participations;

3           (vi) foreign currency exchange contracts and  
4 forward and futures contracts on foreign  
5 currencies;

6           (vii) stock and bond index securities and  
7 futures contracts and other similar financial  
8 securities and futures contracts on those  
9 securities;

10           (viii) options for the purchase or sale of any  
11 of the securities, currencies, contracts, or  
12 financial instruments described in items (i) to  
13 (vii), inclusive;

14           (ix) regulated futures contracts;

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

23           (xi) derivatives; and

24           (xii) a partnership interest in another  
25 partnership that is an investment partnership.

26           (12) Mathematical error. The term "mathematical error"

1 includes the following types of errors, omissions, or  
2 defects in a return filed by a taxpayer which prevents  
3 acceptance of the return as filed for processing:

4 (A) arithmetic errors or incorrect computations on  
5 the return or supporting schedules;

6 (B) entries on the wrong lines;

7 (C) omission of required supporting forms or  
8 schedules or the omission of the information in whole  
9 or in part called for thereon; and

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

14 (13) Nonbusiness income. The term "nonbusiness income"  
15 means all income other than business income or  
16 compensation.

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

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

23 (16) Partnership and partner. The term "partnership"  
24 includes a syndicate, group, pool, joint venture or other  
25 unincorporated organization, through or by means of which  
26 any business, financial operation, or venture is carried

1 on, and which is not, within the meaning of this Act, a  
2 trust or estate or a corporation; and the term "partner"  
3 includes a member in such syndicate, group, pool, joint  
4 venture or organization.

5 The term "partnership" includes any entity, including  
6 a limited liability company formed under the Illinois  
7 Limited Liability Company Act, classified as a partnership  
8 for federal income tax purposes.

9 The term "partnership" does not include a syndicate,  
10 group, pool, joint venture, or other unincorporated  
11 organization established for the sole purpose of playing  
12 the Illinois State Lottery.

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

23 (18) Person. The term "person" shall be construed to  
24 mean and include an individual, a trust, estate,  
25 partnership, association, firm, company, corporation,  
26 limited liability company, or fiduciary. For purposes of

1 Section 1301 and 1302 of this Act, a "person" means (i) an  
2 individual, (ii) a corporation, (iii) an officer, agent, or  
3 employee of a corporation, (iv) a member, agent or employee  
4 of a partnership, or (v) a member, manager, employee,  
5 officer, director, or agent of a limited liability company  
6 who in such capacity commits an offense specified in  
7 Section 1301 and 1302.

8 (18A) Records. The term "records" includes all data  
9 maintained by the taxpayer, whether on paper, microfilm,  
10 microfiche, or any type of machine-sensible data  
11 compilation.

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

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

15 (A) an individual (i) who is in this State for  
16 other than a temporary or transitory purpose during the  
17 taxable year; or (ii) who is domiciled in this State  
18 but is absent from the State for a temporary or  
19 transitory purpose during the taxable year;

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

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

24 (D) An irrevocable trust, the grantor of which was  
25 domiciled in this State at the time such trust became  
26 irrevocable. For purpose of this subparagraph, a trust

1 shall be considered irrevocable to the extent that the  
2 grantor is not treated as the owner thereof under  
3 Sections 671 through 678 of the Internal Revenue Code.

4 (21) Sales. The term "sales" means all gross receipts  
5 of the taxpayer not allocated under Sections 301, 302 and  
6 303.

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

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

26 (24) Taxpayer. The term "taxpayer" means any person



1 subject to the tax imposed by this Act.

2 (25) International banking facility. The term  
3 international banking facility shall have the same meaning  
4 as is set forth in the Illinois Banking Act or as is set  
5 forth in the laws of the United States or regulations of  
6 the Board of Governors of the Federal Reserve System.

7 (26) Income Tax Return Preparer.

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

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

18 (i) furnish typing, reproducing, or other  
19 mechanical assistance;

20 (ii) prepare returns or claims for refunds for  
21 the employer by whom he or she is regularly and  
22 continuously employed;

23 (iii) prepare as a fiduciary returns or claims  
24 for refunds for any person; or

25 (iv) prepare claims for refunds for a taxpayer  
26 in response to any notice of deficiency issued to

1           that taxpayer or in response to any waiver of  
2           restriction after the commencement of an audit of  
3           that taxpayer or of another taxpayer if a  
4           determination in the audit of the other taxpayer  
5           directly or indirectly affects the tax liability  
6           of the taxpayer whose claims he or she is  
7           preparing.

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

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

1 ordinarily required to apportion business income under  
2 different subsections of Section 304 except that for tax  
3 years ending on or after December 31, 1987 this prohibition  
4 shall not apply to a unitary business group composed of one  
5 or more taxpayers all of which apportion business income  
6 pursuant to subsection (b) of Section 304, or all of which  
7 apportion business income pursuant to subsection (d) of  
8 Section 304, and a holding company of such single-factor  
9 taxpayers (see definition of "financial organization" for  
10 rule regarding holding companies of financial  
11 organizations). If a unitary business group would, but for  
12 the preceding sentence, include members that are  
13 ordinarily required to apportion business income under  
14 different subsections of Section 304, then for each  
15 subsection of Section 304 for which there are two or more  
16 members, there shall be a separate unitary business group  
17 composed of such members. For purposes of the preceding two  
18 sentences, a member is "ordinarily required to apportion  
19 business income" under a particular subsection of Section  
20 304 if it would be required to use the apportionment method  
21 prescribed by such subsection except for the fact that it  
22 derives business income solely from Illinois. As used in  
23 this paragraph, the phrase "United States" means only the  
24 50 states and the District of Columbia, but does not  
25 include any territory or possession of the United States or  
26 any area over which the United States has asserted

1 jurisdiction or claimed exclusive rights with respect to  
2 the exploration for or exploitation of natural resources.

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

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

24 (30) Foreign person. The term "foreign person" means  
25 any person who is a nonresident alien individual and any  
26 nonindividual entity, regardless of where created or

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

4 (b) Other definitions.

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

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

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

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

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

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

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

1           Section 10-10. The Retailers' Occupation Tax Act is amended  
2 by changing Section 2-5 as follows:

3           (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

7           (1) Farm chemicals.

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

1 tender is separately stated.

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

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

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

24 (4) Until July 1, 2003 and beginning again September 1,  
25 2004, graphic arts machinery and equipment, including repair  
26 and replacement parts, both new and used, and including that



1 manufactured on special order or purchased for lease, certified  
2 by the purchaser to be used primarily for graphic arts  
3 production. Equipment includes chemicals or chemicals acting  
4 as catalysts but only if the chemicals or chemicals acting as  
5 catalysts effect a direct and immediate change upon a graphic  
6 arts product.

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

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

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

24 (8) Personal property sold to an Illinois county fair  
25 association for use in conducting, operating, or promoting the  
26 county fair.

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

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

23           (11) Personal property sold to a governmental body, to a  
24 corporation, society, association, foundation, or institution  
25 organized and operated exclusively for charitable, religious,  
26 or educational purposes, or to a not-for-profit corporation,

1 society, association, foundation, institution, or organization  
2 that has no compensated officers or employees and that is  
3 organized and operated primarily for the recreation of persons  
4 55 years of age or older. A limited liability company may  
5 qualify for the exemption under this paragraph only if the  
6 limited liability company is organized and operated  
7 exclusively for educational purposes. On and after July 1,  
8 1987, however, no entity otherwise eligible for this exemption  
9 shall make tax-free purchases unless it has an active  
10 identification number issued by the Department.

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

20 (12-5) On and after July 1, 2003 and through June 30, 2004,  
21 motor vehicles of the second division with a gross vehicle  
22 weight in excess of 8,000 pounds that are subject to the  
23 commercial distribution fee imposed under Section 3-815.1 of  
24 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
25 through June 30, 2005, the use in this State of motor vehicles  
26 of the second division: (i) with a gross vehicle weight rating

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

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

19 (14) Machinery and equipment that will be used by the  
20 purchaser, or a lessee of the purchaser, primarily in the  
21 process of manufacturing or assembling tangible personal  
22 property for wholesale or retail sale or lease, whether the  
23 sale or lease is made directly by the manufacturer or by some  
24 other person, whether the materials used in the process are  
25 owned by the manufacturer or some other person, or whether the  
26 sale or lease is made apart from or as an incident to the

1 seller's engaging in the service occupation of producing  
2 machines, tools, dies, jigs, patterns, gauges, or other similar  
3 items of no commercial value on special order for a particular  
4 purchaser.

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

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

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

23 (18) Legal tender, currency, medallions, or gold or silver  
24 coinage issued by the State of Illinois, the government of the  
25 United States of America, or the government of any foreign  
26 country, and bullion.

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

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

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

21           (22) Fuel and petroleum products sold to or used by an air  
22 carrier, certified by the carrier to be used for consumption,  
23 shipment, or storage in the conduct of its business as an air  
24 common carrier, for a flight destined for or returning from a  
25 location or locations outside the United States without regard  
26 to previous or subsequent domestic stopovers.

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

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

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

23           (25-5) The exemption under item (25) does not apply if the  
24 state in which the motor vehicle will be titled does not allow  
25 a reciprocal exemption for a motor vehicle sold and delivered  
26 in that state to an Illinois resident but titled in Illinois.

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

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



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

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

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

20           (30) Beginning with taxable years ending on or after  
21 December 31, 1995 and ending with taxable years ending on or  
22 before December 31, 2004, personal property that is donated for  
23 disaster relief to be used in a State or federally declared  
24 disaster area in Illinois or bordering Illinois by a  
25 manufacturer or retailer that is registered in this State to a  
26 corporation, society, association, foundation, or institution

1 that has been issued a sales tax exemption identification  
2 number by the Department that assists victims of the disaster  
3 who reside within the declared disaster area.

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

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

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

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

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

1 exempt from the provisions of Section 2-70.

2 (35) Beginning January 1, 2000 and through December 31,  
3 2001, new or used automatic vending machines that prepare and  
4 serve hot food and beverages, including coffee, soup, and other  
5 items, and replacement parts for these machines. Beginning  
6 January 1, 2002 and through June 30, 2003, machines and parts  
7 for machines used in commercial, coin-operated amusement and  
8 vending business if a use or occupation tax is paid on the  
9 gross receipts derived from the use of the commercial,  
10 coin-operated amusement and vending machines. This paragraph  
11 is exempt from the provisions of Section 2-70.

12 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
13 food for human consumption that is to be consumed off the  
14 premises where it is sold (other than alcoholic beverages, soft  
15 drinks, and food that has been prepared for immediate  
16 consumption) and prescription and nonprescription medicines,  
17 drugs, medical appliances, and insulin, urine testing  
18 materials, syringes, and needles used by diabetics, for human  
19 use, when purchased for use by a person receiving medical  
20 assistance under Article 5 of the Illinois Public Aid Code who  
21 resides in a licensed long-term care facility, as defined in  
22 the Nursing Home Care Act.

23 (36) Beginning August 2, 2001, computers and  
24 communications equipment utilized for any hospital purpose and  
25 equipment used in the diagnosis, analysis, or treatment of  
26 hospital patients sold to a lessor who leases the equipment,

1 under a lease of one year or longer executed or in effect at  
2 the time of the purchase, to a hospital that has been issued an  
3 active tax exemption identification number by the Department  
4 under Section 1g of this Act. This paragraph is exempt from the  
5 provisions of Section 2-70.

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

13 (38) Beginning on January 1, 2002 and through June 30,  
14 2011, tangible personal property purchased from an Illinois  
15 retailer by a taxpayer engaged in centralized purchasing  
16 activities in Illinois who will, upon receipt of the property  
17 in Illinois, temporarily store the property in Illinois (i) for  
18 the purpose of subsequently transporting it outside this State  
19 for use or consumption thereafter solely outside this State or  
20 (ii) for the purpose of being processed, fabricated, or  
21 manufactured into, attached to, or incorporated into other  
22 tangible personal property to be transported outside this State  
23 and thereafter used or consumed solely outside this State. The  
24 Director of Revenue shall, pursuant to rules adopted in  
25 accordance with the Illinois Administrative Procedure Act,  
26 issue a permit to any taxpayer in good standing with the

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

10 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
11 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
12 94-1002, eff. 7-3-06.)

13 ARTICLE 99.EFFECTIVE DATE

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law."