



Sen. Dan Kotowski

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1 AMENDMENT TO HOUSE BILL 3659

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3659, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the Oil  
6 Company Gross Income Tax Act.

7 Section 5. Definitions. Except as otherwise expressly  
8 provided or clearly appearing from the context, any term used  
9 in this Act shall have the same meaning as when used in a  
10 comparable context in the Illinois Income Tax Act, as in effect  
11 for the taxable year. As used in this Act:

12 "Department" means the Department of Revenue.

13 "Gross income" of a taxpayer means the amount of gross  
14 income properly reportable for federal income tax purposes for  
15 the taxable year under the provisions of the Internal Revenue  
16 Code, minus any amounts that are exempt from taxation by this

1 State either by reason of its statutes or Constitution or by  
2 reason of the Constitution, treaties or statutes of the United  
3 States.

4 "Illinois gross income" of a taxpayer means the amount of  
5 gross income of the taxpayer, multiplied by the apportionment  
6 fraction of the taxpayer determined under Section 304 of the  
7 Illinois Income Tax Act for the taxable year.

8 "Oil company" means any taxpayer primarily engaged in the  
9 business (other than as an employee) of exploration, drilling,  
10 importation, refining or wholesale distribution of petroleum  
11 products, excluding retail sales of tangible personal property  
12 for use or consumption, and not for resale.

13 "Petroleum products" means any products that contain or are  
14 made from petroleum or a petroleum derivative.

15 "Taxpayer" means any person subject to tax under the  
16 Illinois Income Tax Act. In the case of a unitary business  
17 group as defined in Section 1501(a)(27) of the Illinois Income  
18 Tax Act, "taxpayer" means the unitary business group, all  
19 returns on behalf of the taxpayer shall be made by the  
20 designated agent of the unitary business group and each member  
21 of the unitary business group doing business in this State  
22 shall be jointly and severally liable for the tax imposed under  
23 this Act.

24 Section 10. Tax imposed. For taxable years ending on or  
25 after December 31, 2011, a tax is hereby imposed on each oil

1 company doing business in this State at the rate of 12% of the  
2 Illinois gross income of the oil company.

3 Section 15. Returns and payments.

4 (a) In General. Except as provided by the Department by  
5 rule, every taxpayer qualified to do business in this State at  
6 any time during a taxable year shall make a return under this  
7 Act for that taxable year. Returns required by this Act shall  
8 be made in the form and manner prescribed by the Department,  
9 and shall be filed on or before the due date (including  
10 extensions) for filing of the taxpayer's Illinois income tax  
11 return for the same taxable year under the Illinois Income Tax  
12 Act. The Department may by rule require any return required  
13 under this Act to be filed electronically.

14 (b) A taxpayer shall notify the Department if the federal  
15 income tax liability of that taxpayer for any year is altered  
16 by amendment of that taxpayer's federal income tax return or as  
17 a result of any other recomputation or redetermination of  
18 federal income tax liability, and such alteration reflects a  
19 change or settlement with respect to any item or items  
20 affecting the computation of such taxpayer's Illinois gross  
21 income for any year under this Act. Such notification shall be  
22 in the form of an amended return or such other form as the  
23 Department may by rule prescribe, and shall be filed not later  
24 than 120 days after such alteration has been agreed to or  
25 finally determined for federal income tax purposes or any

1 federal income tax deficiency or refund, abatement or credit  
2 resulting therefrom has been assessed or paid, whichever shall  
3 first occur.

4 (c) Every taxpayer required to file a return under this Act  
5 shall, without assessment, notice or demand, pay any tax due  
6 thereon to the Department, at the place fixed for filing, on or  
7 before the date fixed for filing such return (including any  
8 extension of time for filing the return) pursuant to rules  
9 prescribed by the Department.

10 (d) Every taxpayer shall keep such records, render such  
11 statements, make such returns and notices, and comply with such  
12 rules and regulations as the Department may from time to time  
13 prescribe. Whenever in the judgment of the Director it is  
14 necessary, he may require any taxpayer, by notice served upon  
15 such taxpayer or by regulations, to make such returns and  
16 notices, render such statements, or keep such records, as the  
17 Director deems sufficient to show whether or not such taxpayer  
18 is liable for tax under this Act.

19 Section 20. Payment of Estimated Tax.

20 (a) For taxable years ending on or after December 31, 2011,  
21 each taxpayer is required to pay estimated tax for the taxable  
22 year, in such amount and with such forms as the Department  
23 shall prescribe.

24 (b) There shall be paid 4 equal installments of estimated  
25 tax for each taxable year, payable as follows:

Required Installment:	Due Date:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15

(c) Application to short taxable years. The application of this Section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Department.

(d) Fiscal years. In the application of this Section to the case of a taxable year ending on any date other than December 31, there shall be substituted, for the months specified in subsection (b), the months which correspond thereto.

(e) In case of any underpayment of estimated tax by a taxpayer, the taxpayer shall be liable to a penalty in an amount determined at the rate prescribed by Section 3-3 of the Uniform Penalty and Interest Act upon the amount of the underpayment for each required installment.

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

(A) the amount of the installment which would be required to be paid under paragraph (2) of this subsection, over

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

(2) Amount of Required Installments. The amount of any required installment shall be 25% of the required annual

1 payment. The "required annual payment" means the lesser of  
2 90% of the tax shown on the return for the taxable year, or  
3 if no return is filed, 90% of the tax for such year.

4 Section 25. Collection authority. The Department shall  
5 collect the taxes imposed by this Act and shall deposit the  
6 amounts collected into the General Revenue Fund in the State  
7 treasury.

8 Section 30. Notice and Demand.

9 (a) In general. Except as provided in subsection (b) the  
10 Director shall, as soon as practicable after an amount payable  
11 under this Act is deemed assessed (as provided in Section 35 of  
12 this Act), give notice to each taxpayer liable for any unpaid  
13 portion of such assessment, stating the amount unpaid and  
14 demanding payment thereof. In the case of tax deemed assessed  
15 with the filing of a return, the Director shall give notice no  
16 later than 3 years after the date the return was filed. Upon  
17 receipt of any notice and demand there shall be paid at the  
18 place and time stated in such notice the amount stated in such  
19 notice. Such notice shall be left at the dwelling or usual  
20 place of business of such taxpayer or shall be sent by mail to  
21 the taxpayer's last known address.

22 (b) Judicial review. In the case of a deficiency deemed  
23 assessed under Section 35(b) of this Act after the filing of a  
24 protest, notice and demand shall not be made with respect to

1 such assessment until all proceedings in court for the review  
2 of such assessment have terminated or the time for the taking  
3 thereof has expired without such proceedings being instituted.

4 Section 35. Assessment.

5 (a) Returns. The amount of tax which is shown to be due on  
6 the return shall be deemed assessed on the date of filing of  
7 the return (including any amended returns showing an increase  
8 of tax). In the event that the amount of tax is understated on  
9 the taxpayer's return due to a mathematical error, the  
10 Department shall notify the taxpayer that the amount of tax in  
11 excess of that shown on the return is due and has been  
12 assessed. Such notice of additional tax due shall be issued no  
13 later than 3 years after the date the return was filed. Such  
14 notice of additional tax due shall not be considered a notice  
15 of deficiency nor shall the taxpayer have any right of protest.  
16 In the case of a return properly filed without the computation  
17 of the tax, the tax computed by the Department shall be deemed  
18 to be assessed on the date when payment is due.

19 (b) Notice of deficiency. If a notice of deficiency has  
20 been issued, the amount of the deficiency shall be deemed  
21 assessed on the date provided in Section 40(d) of this Act if  
22 no protest is filed; or, if a protest is filed, then upon the  
23 date when the decision of the Department becomes final.

24 (c) Payments. Any amount paid as tax or in respect of tax  
25 paid under this Act, other than amounts paid as estimated tax

1 under Section 20 of this Act, shall be deemed assessed upon the  
2 date of receipt of payment, notwithstanding any other  
3 provisions of this Act.

4 (d) Limitations on assessment. No deficiency shall be  
5 assessed with respect to a taxable year for which a return was  
6 filed unless a notice of deficiency for such year was issued  
7 not later than the date prescribed in Section 45 of this Act.

8 Section 40. Deficiencies and overpayments.

9 (a) Examination of return. As soon as practicable after a  
10 return is filed, the Department shall examine it to determine  
11 the correct amount of tax. If the Department finds that the  
12 amount of tax shown on the return is less than the correct  
13 amount, it shall issue a notice of deficiency to the taxpayer  
14 which shall set forth the amount of tax and penalties proposed  
15 to be assessed. If the Department finds that the tax paid is  
16 more than the correct amount, it shall credit or refund the  
17 overpayment as provided by Section 55. The findings of the  
18 Department under this subsection shall be prima facie correct  
19 and shall be prima facie evidence of the correctness of the  
20 amount of tax and penalties due.

21 (b) No return filed. If the taxpayer fails to file a tax  
22 return, the Department shall determine the amount of tax due  
23 according to its best judgment and information, which amount so  
24 fixed by the Department shall be prima facie correct and shall  
25 be prima facie evidence of the correctness of the amount of tax



1 due. The Department shall issue a notice of deficiency to the  
2 taxpayer which shall set forth the amount of tax and penalties  
3 proposed to be assessed.

4 (c) Notice of deficiency. A notice of deficiency issued  
5 under this Act shall set forth the adjustments giving rise to  
6 the proposed assessment and the reasons therefor.

7 (d) Assessment when no protest. Upon the expiration of 60  
8 days (150 days if the taxpayer is outside the United States)  
9 after the date on which it was issued, a notice of deficiency  
10 shall constitute an assessment of the amount of tax and  
11 penalties specified therein, except only for such amounts as to  
12 which the taxpayer shall have filed a protest with the  
13 Department, as provided in Section 50 of this Act.

14 Section 45. Limitations on notices of deficiency.

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

16 (1) A notice of deficiency shall be issued not later  
17 than 3 years after the date the return was filed, and

18 (2) No deficiency shall be assessed or collected with  
19 respect to the year for which the return was filed unless  
20 such notice is issued within such period.

21 (b) No return or fraudulent return. If no return is filed  
22 or a false and fraudulent return is filed with intent to evade  
23 the tax imposed by this Act, a notice of deficiency may be  
24 issued at any time.

25 (c) Failure to report federal change. If a taxpayer fails

1 to notify the Department in any case where notification is  
2 required by Section 15 of this Act, a notice of deficiency may  
3 be issued at any time for the taxable year for which the  
4 notification is required; provided, however, that the amount of  
5 any proposed assessment set forth in the notice shall be  
6 limited to the amount of any deficiency resulting under this  
7 Act from giving effect to the item or items required to be  
8 reported.

9 (d) Report of federal change. In any case where  
10 notification of an alteration is given as required by Section  
11 15 of this Act, a notice of deficiency may be issued at any  
12 time within 2 years after the date such notification is given,  
13 provided, however, that the amount of any proposed assessment  
14 set forth in such notice shall be limited to the amount of any  
15 deficiency resulting under this Act from giving effect to the  
16 item or items reflected in the reported alteration.

17 (e) Change in Illinois income tax liability. In any case  
18 where the taxpayer's Illinois income tax liability for a  
19 taxable year is increased as the result of a change in the  
20 taxpayer's apportionment fraction, a notice of deficiency for  
21 any additional tax due under this Act as the result of the  
22 change in the taxpayer's apportionment fraction may be issued  
23 at any time within 2 years after the increased Illinois income  
24 tax overpayment is assessed.

25 (f) Extension by agreement. Where, before the expiration of  
26 the time prescribed in this section for the issuance of a

1 notice of deficiency, both the Department and the taxpayer  
2 shall have consented in writing to its issuance after such  
3 time, such notice may be issued at any time prior to the  
4 expiration of the period agreed upon. The period so agreed upon  
5 may be extended by subsequent agreements in writing made before  
6 the expiration of the period previously agreed upon.

7 (g) Erroneous refunds. In any case in which there has been  
8 an erroneous refund of tax payable under this Act, a notice of  
9 deficiency may be issued at any time within 2 years from the  
10 making of such refund, or within 5 years from the making of  
11 such refund if it appears that any part of the refund was  
12 induced by fraud or the misrepresentation of a material fact,  
13 provided, however, that the amount of any proposed assessment  
14 set forth in such notice shall be limited to the amount of such  
15 erroneous refund.

16 (h) Time return deemed filed. For purposes of this Section  
17 a tax return filed before the last day prescribed by law  
18 (including any extension thereof) shall be deemed to have been  
19 filed on such last day.

20 Section 50. Procedure on protest.

21 (a) Time for protest. Within 60 days (150 days if the  
22 taxpayer is outside the United States) after the issuance of a  
23 notice of deficiency, the taxpayer may file with the Department  
24 a written protest against the proposed assessment in such form  
25 as the Department may by regulations prescribe, setting forth

1 the grounds on which such protest is based. If a protest is  
2 filed, the Department shall reconsider the proposed assessment  
3 and, if the taxpayer has so requested, shall grant the taxpayer  
4 or the taxpayer's authorized representative a hearing.

5 (b) Notice of decision. As soon as practicable after such  
6 reconsideration and hearing, if any, the Department shall issue  
7 a notice of decision by mailing such notice by certified or  
8 registered mail. Such notice shall set forth briefly the  
9 Department's findings of fact and the basis of decision in each  
10 case decided in whole or in part adversely to the taxpayer.

11 (c) Request for rehearing. Within 30 days after the mailing  
12 of a notice of decision, the taxpayer may file with a  
13 Department a written request for rehearing in such form as the  
14 Department may by regulations prescribe, setting forth the  
15 grounds on which rehearing is requested. In any such case, the  
16 Department shall, in its discretion, grant either a rehearing  
17 or Departmental review unless, within 10 days of receipt of  
18 such request, it shall issue a denial of such request by  
19 mailing such denial to the taxpayer by certified or registered  
20 mail. If rehearing or Departmental review is granted, as soon  
21 as practicable after such rehearing or Departmental review, the  
22 Department shall issue a notice of final decision as provided  
23 in subsection (b).

24 (d) Finality of decision. The action of the Department on  
25 the taxpayer's protest shall become final:

26 (1) 30 Days after issuance of a notice of decision as

1 provided in subsection (b); or

2 (2) if a timely request for rehearing was made, upon  
3 the issuance of a denial of such request or the issuance of  
4 a notice of final decision as provided in subsection (c).

5 Section 55. Credits and refunds.

6 (a) In general. In the case of any overpayment, the  
7 Department may credit the amount of such overpayment, including  
8 any interest allowed thereon, against any liability in respect  
9 of the tax imposed by this Act or any other act administered by  
10 the Department or against any liability of the taxpayer  
11 collectible by the Department, regardless of whether other  
12 collection remedies are closed to the Department on the part of  
13 the person who made the overpayment and shall refund any  
14 balance to such person. The Department shall apply overpayments  
15 to liabilities in the order provided in Section 911.3 of the  
16 Illinois Income Tax Act.

17 (b) Credits against estimated tax. The Department may  
18 prescribe regulations providing for the crediting against the  
19 estimated tax for any taxable year of the amount determined by  
20 the taxpayer or the Department to be an overpayment of the tax  
21 imposed by this Act for a preceding taxable year.

22 (c) Interest on overpayment. Interest shall be allowed and  
23 paid at the rate and in the manner prescribed in Section 3-2 of  
24 the Uniform Penalty and Interest Act upon any overpayment in  
25 respect of the tax imposed by this Act. For purposes of this

1 subsection, no amount of tax, for any taxable year, shall be  
2 treated as having been paid before the date on which the  
3 payment of tax for such year was due under Section 15(c) of  
4 this Act.

5 (d) Refund claim. Every claim for refund shall be filed  
6 with the Department in writing in such form as the Department  
7 may by regulations prescribe, and shall state the specific  
8 grounds upon which it is founded.

9 (e) Notice of denial. As soon as practicable after a claim  
10 for refund is filed, the Department shall examine it and either  
11 issue a notice of refund, abatement or credit to the claimant  
12 or issue a notice of denial. If the Department has failed to  
13 approve or deny the claim before the expiration of 6 months  
14 from the date the claim was filed, the claimant may  
15 nevertheless thereafter file with the Department a written  
16 protest in such form as the Department may by regulation  
17 prescribe. If a protest is filed, the Department shall consider  
18 the claim and, if the taxpayer has so requested, shall grant  
19 the taxpayer or the taxpayer's authorized representative a  
20 hearing within 6 months after the date such request is filed.

21 (f) Effect of denial. A denial of a claim for refund  
22 becomes final 60 days after the date of issuance of the notice  
23 of such denial except for such amounts denied as to which the  
24 claimant has filed a protest with the Department, as provided  
25 by Section 60 of this Act.

1 Section 60. Procedure on denial of claim for refund.

2 (a) Time for protest. Within 60 days after the denial of  
3 the claim, the claimant may file with the Department a written  
4 protest against such denial in such form as the Department may  
5 by regulations prescribe, setting forth the grounds on which  
6 such protest is based. If a protest is filed, the Department  
7 shall reconsider the denial and, if the taxpayer has so  
8 requested, shall grant the taxpayer or his authorized  
9 representative a hearing.

10 (b) Notice of decision. As soon as practicable after such  
11 reconsideration and hearing, if any, the Department shall issue  
12 a notice of decision by mailing such notice by certified or  
13 registered mail. Such notice shall set forth briefly the  
14 Department's findings of fact and the basis of decision in each  
15 case decided in whole or in part adversely to the claimant.

16 (c) Request for rehearing. Within 30 days after the mailing  
17 of a notice of decision, the claimant may file with the  
18 Department a written request for rehearing in such form as the  
19 Department may by regulations prescribe, setting forth the  
20 grounds on which rehearing is requested. In any such case, the  
21 Department shall, in its discretion, grant either a rehearing  
22 or Departmental review unless, within 10 days of receipt of  
23 such request, it shall issue a denial of such request by  
24 mailing such denial to the claimant by certified or registered  
25 mail. If rehearing or Departmental review is granted, as soon  
26 as practicable after such rehearing or Departmental review, the

1 Department shall issue a notice of final decision as provided  
2 in subsection (b).

3 (d) Finality of decision. The action of the Department on  
4 the claimant's protest shall become final:

5 (1) 30 days after issuance of a notice of decision as  
6 provided in subsection (b); or

7 (2) If a timely request for rehearing was made, upon  
8 the issuance of a denial of such request or the issuance of  
9 a notice of final decision as provided in subsection (c).

10 Section 65. Limitations on claims for refund.

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

12 (1) A claim for refund shall be filed not later than 3  
13 years after the date the return was filed, or one year  
14 after the date the tax was paid, whichever is the later;  
15 and

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

19 (b) Federal changes. In any case where notification of an  
20 alteration is required by Section 15(b) of this Act, a claim  
21 for refund may be filed within 2 years after the date on which  
22 such notification was due (regardless of whether such notice  
23 was given), but the amount recoverable pursuant to a claim  
24 filed under this Section shall be limited to the amount of any  
25 overpayment resulting under this Act from giving effect to the



1 item or items reflected in the alteration required to be  
2 reported.

3 (c) Change in Illinois income tax liability. In any case  
4 where the taxpayer's Illinois income tax liability for a  
5 taxable year is decreased as the result of a change in the  
6 taxpayer's apportionment fraction, a claim refund of an  
7 overpayment resulting from the change in the taxpayer's  
8 apportionment fraction may be issued at any time within 2 years  
9 after the decreased Illinois income tax overpayment is refunded  
10 or credited.

11 (d) Extension by agreement. Where, before the expiration of  
12 the time prescribed in this Section for the filing of a claim  
13 for refund, both the Department and the claimant shall have  
14 consented in writing to its filing after such time, such claim  
15 may be filed at any time prior to the expiration of the period  
16 agreed upon. The period so agreed upon may be extended by  
17 subsequent agreements in writing made before the expiration of  
18 the period previously agreed upon.

19 (e) Limit on amount of credit or refund.

20 (1) Limit where claim filed within 3-year period. If  
21 the claim was filed by the claimant during the 3-year  
22 period prescribed in subsection (a), the amount of the  
23 credit or refund shall not exceed the portion of the tax  
24 paid within the period, immediately preceding the filing of  
25 the claim, equal to 3 years plus the period of any  
26 extension of time for filing the return.

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

6           (f) Time return deemed filed. For purposes of this Section  
7           a tax return filed before the last day prescribed by law for  
8           the filing of such return (including any extensions thereof)  
9           shall be deemed to have been filed on such last day.

10           Section 70. Procedure and administration. The provisions  
11           of Section 913, 914, 915, 916, 917 and 918 and Articles 10, 11,  
12           12, 13 and 14 of the Illinois Income Tax Act which are not  
13           inconsistent with this Act shall apply, as far as practicable,  
14           to the subject matter of this Act to the same extent as if such  
15           provisions were included herein.

16           Section 75. The Illinois Income Tax Act is amended by  
17           changing Sections 205, 901, and 1501 as follows:

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

19           Sec. 205. Exempt organizations.

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

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

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

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

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

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

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

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

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

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

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

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

5 (h) For taxable years ending on or after December 31, 2011,  
6 any oil company liable for tax under the Oil Company Gross  
7 Income Tax Act shall not be subject to the tax imposed by  
8 subsections 201 (a) and (b) of this Act, but shall be subject  
9 to the replacement tax imposed by subsection 201 (c) and (d) of  
10 this Act. For purposes of computing the tax imposed on any  
11 person by subsections 201 (a) and (b) of this Act, but not the  
12 replacement tax imposed by subsections 201 (c) and (d) of this  
13 Act, the base income of a partnership, trust or Subchapter S  
14 corporation that is liable for tax under the Oil Company Gross  
15 Income Tax Act shall be deemed to be an amount exempt from  
16 taxation by this State under subparagraphs (a)(2)(N),  
17 (b)(2)(J), (c)(2)(K) and (d)(2)(G) of Section 203 of this Act.  
18 This subsection (h) is exempt from the provisions of Section  
19 250 of this Act.

20 (Source: P.A. 95-233, eff. 8-16-07; 95-331, eff. 8-21-07.)

21 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

22 Sec. 901. Collection Authority.

23 (a) In general.

24 The Department shall collect the taxes imposed by this Act.

25 The Department shall collect certified past due child support

1 amounts under Section 2505-650 of the Department of Revenue Law  
2 (20 ILCS 2505/2505-650). Except as provided in subsections (c)  
3 and (e) of this Section, money collected pursuant to  
4 subsections (a) and (b) of Section 201 of this Act shall be  
5 paid into the General Revenue Fund in the State treasury; money  
6 collected pursuant to subsections (c) and (d) of Section 201 of  
7 this Act shall be paid into the Personal Property Tax  
8 Replacement Fund, a special fund in the State Treasury; and  
9 money collected under Section 2505-650 of the Department of  
10 Revenue Law (20 ILCS 2505/2505-650) shall be paid into the  
11 Child Support Enforcement Trust Fund, a special fund outside  
12 the State Treasury, or to the State Disbursement Unit  
13 established under Section 10-26 of the Illinois Public Aid  
14 Code, as directed by the Department of Healthcare and Family  
15 Services.

16 (b) Local Government Distributive Fund.

17 Beginning August 1, 1969, and continuing through June 30,  
18 1994, the Treasurer shall transfer each month from the General  
19 Revenue Fund to a special fund in the State treasury, to be  
20 known as the "Local Government Distributive Fund", an amount  
21 equal to 1/12 of the net revenue realized from the tax imposed  
22 by subsections (a) and (b) of Section 201 of this Act during  
23 the preceding month. Beginning July 1, 1994, and continuing  
24 through June 30, 1995, the Treasurer shall transfer each month  
25 from the General Revenue Fund to the Local Government  
26 Distributive Fund an amount equal to 1/11 of the net revenue

1 realized from the tax imposed by subsections (a) and (b) of  
2 Section 201 of this Act during the preceding month. Beginning  
3 July 1, 1995, the Treasurer shall transfer each month from the  
4 General Revenue Fund to the Local Government Distributive Fund  
5 an amount equal to the net of (i) 1/10 of the net revenue  
6 realized from the tax imposed by subsections (a) and (b) of  
7 Section 201 of the Illinois Income Tax Act during the preceding  
8 month (ii) minus, beginning July 1, 2003 and ending June 30,  
9 2004, \$6,666,666, and beginning July 1, 2004, zero. Net revenue  
10 realized for a month shall be defined as the revenue from the  
11 tax imposed by subsections (a) and (b) of Section 201 of this  
12 Act which is deposited in the General Revenue Fund, the  
13 Educational Assistance Fund and the Income Tax Surcharge Local  
14 Government Distributive Fund during the month minus the amount  
15 paid out of the General Revenue Fund in State warrants during  
16 that same month as refunds to taxpayers for overpayment of  
17 liability under the tax imposed by subsections (a) and (b) of  
18 Section 201 of this Act.

19 (c) Deposits Into Income Tax Refund Fund.

20 (1) Beginning on January 1, 1989 and thereafter, the  
21 Department shall deposit a percentage of the amounts  
22 collected pursuant to subsections (a) and (b)(1), (2), and  
23 (3), of Section 201 of this Act into a fund in the State  
24 treasury known as the Income Tax Refund Fund. The  
25 Department shall deposit 6% of such amounts during the  
26 period beginning January 1, 1989 and ending on June 30,

1 1989. Beginning with State fiscal year 1990 and for each  
2 fiscal year thereafter, the percentage deposited into the  
3 Income Tax Refund Fund during a fiscal year shall be the  
4 Annual Percentage. For fiscal years 1999 through 2001, the  
5 Annual Percentage shall be 7.1%. For fiscal year 2003, the  
6 Annual Percentage shall be 8%. For fiscal year 2004, the  
7 Annual Percentage shall be 11.7%. Upon the effective date  
8 of this amendatory Act of the 93rd General Assembly, the  
9 Annual Percentage shall be 10% for fiscal year 2005. For  
10 fiscal year 2006, the Annual Percentage shall be 9.75%. For  
11 fiscal year 2007, the Annual Percentage shall be 9.75%. For  
12 fiscal year 2008, the Annual Percentage shall be 7.75%. For  
13 fiscal year 2009, the Annual Percentage shall be 9.75%. For  
14 fiscal year 2010, the Annual Percentage shall be 9.75%. For  
15 all other fiscal years, the Annual Percentage shall be  
16 calculated as a fraction, the numerator of which shall be  
17 the amount of refunds approved for payment by the  
18 Department during the preceding fiscal year as a result of  
19 overpayment of tax liability under subsections (a) and  
20 (b) (1), (2), and (3) of Section 201 of this Act plus the  
21 amount of such refunds remaining approved but unpaid at the  
22 end of the preceding fiscal year, minus the amounts  
23 transferred into the Income Tax Refund Fund from the  
24 Tobacco Settlement Recovery Fund, and the denominator of  
25 which shall be the amounts which will be collected pursuant  
26 to subsections (a) and (b) (1), (2), and (3) of Section 201



1 of this Act during the preceding fiscal year; except that  
2 in State fiscal year 2002, the Annual Percentage shall in  
3 no event exceed 7.6%. The Director of Revenue shall certify  
4 the Annual Percentage to the Comptroller on the last  
5 business day of the fiscal year immediately preceding the  
6 fiscal year for which it is to be effective.

7 (2) Beginning on January 1, 1989 and thereafter, the  
8 Department shall deposit a percentage of the amounts  
9 collected pursuant to subsections (a) and (b)(6), (7), and  
10 (8), (c) and (d) of Section 201 of this Act into a fund in  
11 the State treasury known as the Income Tax Refund Fund. The  
12 Department shall deposit 18% of such amounts during the  
13 period beginning January 1, 1989 and ending on June 30,  
14 1989. Beginning with State fiscal year 1990 and for each  
15 fiscal year thereafter, the percentage deposited into the  
16 Income Tax Refund Fund during a fiscal year shall be the  
17 Annual Percentage. For fiscal years 1999, 2000, and 2001,  
18 the Annual Percentage shall be 19%. For fiscal year 2003,  
19 the Annual Percentage shall be 27%. For fiscal year 2004,  
20 the Annual Percentage shall be 32%. Upon the effective date  
21 of this amendatory Act of the 93rd General Assembly, the  
22 Annual Percentage shall be 24% for fiscal year 2005. For  
23 fiscal year 2006, the Annual Percentage shall be 20%. For  
24 fiscal year 2007, the Annual Percentage shall be 17.5%. For  
25 fiscal year 2008, the Annual Percentage shall be 15.5%. For  
26 fiscal year 2009, the Annual Percentage shall be 17.5%. For

1 fiscal year 2010, the Annual Percentage shall be 17.5%. For  
2 all other fiscal years, the Annual Percentage shall be  
3 calculated as a fraction, the numerator of which shall be  
4 the amount of refunds approved for payment by the  
5 Department during the preceding fiscal year as a result of  
6 overpayment of tax liability under subsections (a) and  
7 (b) (6), (7), and (8), (c) and (d) of Section 201 of this  
8 Act plus the amount of such refunds remaining approved but  
9 unpaid at the end of the preceding fiscal year, and the  
10 denominator of which shall be the amounts which will be  
11 collected pursuant to subsections (a) and (b) (6), (7), and  
12 (8), (c) and (d) of Section 201 of this Act during the  
13 preceding fiscal year; except that in State fiscal year  
14 2002, the Annual Percentage shall in no event exceed 23%.  
15 The Director of Revenue shall certify the Annual Percentage  
16 to the Comptroller on the last business day of the fiscal  
17 year immediately preceding the fiscal year for which it is  
18 to be effective.

19 (3) The Comptroller shall order transferred and the  
20 Treasurer shall transfer from the Tobacco Settlement  
21 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000  
22 in January, 2001, (ii) \$35,000,000 in January, 2002, and  
23 (iii) \$35,000,000 in January, 2003.

24 (4) As soon as possible after the end of each fiscal  
25 year, the Director shall order transferred and the State  
26 Treasurer and State Comptroller shall transfer from the

1       General Revenue Fund to the Income Tax Refund Fund an  
2       amount, certified by the Director to the Comptroller, equal  
3       to refunds paid during the fiscal year under the Oil  
4       Company Gross Income Tax Act.

5       (d) Expenditures from Income Tax Refund Fund.

6           (1) Beginning January 1, 1989, money in the Income Tax  
7       Refund Fund shall be expended exclusively for the purpose  
8       of paying refunds resulting from overpayment of tax  
9       liability under Section 201 of this Act or under the Oil  
10      Company Gross Income Tax Act, for paying rebates under  
11      Section 208.1 in the event that the amounts in the  
12      Homeowners' Tax Relief Fund are insufficient for that  
13      purpose, and for making transfers pursuant to this  
14      subsection (d).

15           (2) The Director shall order payment of refunds  
16      resulting from overpayment of tax liability under Section  
17      201 of this Act or under the Oil Company Gross Income Tax  
18      Act from the Income Tax Refund Fund only to the extent that  
19      amounts collected pursuant to Section 201 of this Act and  
20      transfers pursuant to this subsection (d) and item (3) of  
21      subsection (c) have been deposited and retained in the  
22      Fund.

23           (3) As soon as possible after the end of each fiscal  
24      year, the Director shall order transferred and the State  
25      Treasurer and State Comptroller shall transfer from the  
26      Income Tax Refund Fund to the Personal Property Tax

1 Replacement Fund an amount, certified by the Director to  
2 the Comptroller, equal to the excess of the amount  
3 collected pursuant to subsections (c) and (d) of Section  
4 201 of this Act deposited into the Income Tax Refund Fund  
5 during the fiscal year over the amount of refunds resulting  
6 from overpayment of tax liability under subsections (c) and  
7 (d) of Section 201 of this Act paid from the Income Tax  
8 Refund Fund during the fiscal year.

9 (4) As soon as possible after the end of each fiscal  
10 year, the Director shall order transferred and the State  
11 Treasurer and State Comptroller shall transfer from the  
12 Personal Property Tax Replacement Fund to the Income Tax  
13 Refund Fund an amount, certified by the Director to the  
14 Comptroller, equal to the excess of the amount of refunds  
15 resulting from overpayment of tax liability under  
16 subsections (c) and (d) of Section 201 of this Act paid  
17 from the Income Tax Refund Fund during the fiscal year over  
18 the amount collected pursuant to subsections (c) and (d) of  
19 Section 201 of this Act deposited into the Income Tax  
20 Refund Fund during the fiscal year.

21 (4.5) As soon as possible after the end of fiscal year  
22 1999 and of each fiscal year thereafter, the Director shall  
23 order transferred and the State Treasurer and State  
24 Comptroller shall transfer from the Income Tax Refund Fund  
25 to the General Revenue Fund any surplus remaining in the  
26 Income Tax Refund Fund as of the end of such fiscal year;

1           excluding for fiscal years 2000, 2001, and 2002 amounts  
2           attributable to transfers under item (3) of subsection (c)  
3           less refunds resulting from the earned income tax credit.

4           (5) This Act shall constitute an irrevocable and  
5           continuing appropriation from the Income Tax Refund Fund  
6           for the purpose of paying refunds upon the order of the  
7           Director in accordance with the provisions of this Section.

8           (e) Deposits into the Education Assistance Fund and the  
9           Income Tax Surcharge Local Government Distributive Fund.

10          On July 1, 1991, and thereafter, of the amounts collected  
11          pursuant to subsections (a) and (b) of Section 201 of this Act,  
12          minus deposits into the Income Tax Refund Fund, the Department  
13          shall deposit 7.3% into the Education Assistance Fund in the  
14          State Treasury. Beginning July 1, 1991, and continuing through  
15          January 31, 1993, of the amounts collected pursuant to  
16          subsections (a) and (b) of Section 201 of the Illinois Income  
17          Tax Act, minus deposits into the Income Tax Refund Fund, the  
18          Department shall deposit 3.0% into the Income Tax Surcharge  
19          Local Government Distributive Fund in the State Treasury.  
20          Beginning February 1, 1993 and continuing through June 30,  
21          1993, of the amounts collected pursuant to subsections (a) and  
22          (b) of Section 201 of the Illinois Income Tax Act, minus  
23          deposits into the Income Tax Refund Fund, the Department shall  
24          deposit 4.4% into the Income Tax Surcharge Local Government  
25          Distributive Fund in the State Treasury. Beginning July 1,  
26          1993, and continuing through June 30, 1994, of the amounts

1 collected under subsections (a) and (b) of Section 201 of this  
2 Act, minus deposits into the Income Tax Refund Fund, the  
3 Department shall deposit 1.475% into the Income Tax Surcharge  
4 Local Government Distributive Fund in the State Treasury.

5 (Source: P.A. 95-707, eff. 1-11-08; 95-744, eff. 7-18-08;  
6 96-45, eff. 7-15-09; 96-328, eff. 8-11-09.)

7 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

8 Sec. 1501. Definitions.

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

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

22 (1.5) Captive real estate investment trust:

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

25 (i) that is considered a real estate

1 investment trust for the taxable year under  
2 Section 856 of the Internal Revenue Code;

3 (ii) the certificates of beneficial interest  
4 or shares of which are not regularly traded on an  
5 established securities market; and

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

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

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

19 (a) a real estate investment trust, other  
20 than a captive real estate investment trust;

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

1           (c) a listed Australian property trust, if  
2 no more than 50% of the voting power or value  
3 of the beneficial interest or shares of that  
4 trust, at any time during the last half of the  
5 taxable year, is owned or controlled, directly  
6 or indirectly, by a single person;

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

14           (e) an entity that is organized outside of  
15 the laws of the United States and that  
16 satisfies all of the following criteria:

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

26           (2) the entity is not subject to tax on



1 amounts that are distributed to its  
2 beneficial owners or is exempt from  
3 entity-level taxation;

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

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

18 (5) the entity is organized in a  
19 country that has entered into a tax treaty  
20 with the United States; or

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

1 securities market, but only if the certificates of  
2 beneficial interest or shares of the real estate  
3 investment trust are regularly traded on an  
4 established securities market prior to the earlier  
5 of the due date (including extensions) for filing  
6 its return under this Act for that first taxable  
7 year or the date it actually files that return.

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

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.

26 (5) Department. The term "Department" means the

1 Department of Revenue of this State.

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

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

7 (8) Financial organization.

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

24 (B) For purposes of subparagraph (A) of this  
25 paragraph, the term "bank" includes (i) any entity that  
26 is regulated by the Comptroller of the Currency under

1 the National Bank Act, or by the Federal Reserve Board,  
2 or by the Federal Deposit Insurance Corporation and  
3 (ii) any federally or State chartered bank operating as  
4 a credit card bank.

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

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

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

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



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

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

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

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

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

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

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

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



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

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

11          (9.5) Fixed place of business. The term "fixed place of  
12          business" has the same meaning as that term is given in  
13          Section 864 of the Internal Revenue Code and the related  
14          Treasury regulations.

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

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

23          (11.5) Investment partnership.

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

1 requirements:

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

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

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

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

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

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

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

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

1 agencies;

2 (v) repurchase agreements and loan  
3 participations;

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

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

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

15 (ix) regulated futures contracts;

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

24 (xi) derivatives; and

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

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

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

7           (B) entries on the wrong lines;

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

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

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

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

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

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

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

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

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

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

24 (18) Person. The term "person" shall be construed to  
25 mean and include an individual, a trust, estate,  
26 partnership, association, firm, company, corporation,

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

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

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

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

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

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

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

25 (D) An irrevocable trust, the grantor of which was  
26 domiciled in this State at the time such trust became

1           irrevocable. For purpose of this subparagraph, a trust  
2           shall be considered irrevocable to the extent that the  
3           grantor is not treated as the owner thereof under  
4           Sections 671 through 678 of the Internal Revenue Code.

5           (21) Sales. The term "sales" means all gross receipts  
6           of the taxpayer not allocated under Sections 301, 302 and  
7           303.

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

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

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

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

8           (26) Income Tax Return Preparer.

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

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

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

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

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

26                   (iv) prepare claims for refunds for a taxpayer



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

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

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

1 unitary business group include members which are  
2 ordinarily required to apportion business income under  
3 different subsections of Section 304 except that for tax  
4 years ending on or after December 31, 1987 this prohibition  
5 shall not apply to a unitary business group composed of one  
6 or more taxpayers all of which apportion business income  
7 pursuant to subsection (b) of Section 304, or all of which  
8 apportion business income pursuant to subsection (d) of  
9 Section 304, and a holding company of such single-factor  
10 taxpayers (see definition of "financial organization" for  
11 rule regarding holding companies of financial  
12 organizations). If a unitary business group would, but for  
13 the preceding sentence, include members that are  
14 ordinarily required to apportion business income under  
15 different subsections of Section 304, then for each  
16 subsection of Section 304 for which there are two or more  
17 members, there shall be a separate unitary business group  
18 composed of such members. For purposes of the preceding two  
19 sentences, a member is "ordinarily required to apportion  
20 business income" under a particular subsection of Section  
21 304 if it would be required to use the apportionment method  
22 prescribed by such subsection except for the fact that it  
23 derives business income solely from Illinois. As used in  
24 this paragraph, the phrase "United States" means ~~only~~ the  
25 50 states and the District of Columbia, and for taxable  
26 years ending on or after December 31, 2011, but does not

1 ~~include~~ any territory or possession of the United States  
2 and ~~or~~ any area over which the United States has asserted  
3 jurisdiction or claimed exclusive rights with respect to  
4 the exploration for or exploitation of natural resources.

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

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

26 (30) Foreign person. The term "foreign person" means

1 any person who is a nonresident alien individual and any  
2 nonindividual entity, regardless of where created or  
3 organized, whose business activity outside the United  
4 States is 80% or more of the entity's total business  
5 activity.

6 (b) Other definitions.

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

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

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

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

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

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

1 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;  
2 96-641, eff. 8-24-09.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".