



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3876

Introduced 2/26/2009, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to provide that, if the Department determines that an overpayment has occurred on an original return filed under specified tax Acts, it shall issue a credit memorandum to the taxpayer without the necessity of the taxpayer filing a claim for credit. Amends Illinois State Collection Act of 1986 to remove provisions concerning the Debt Collection Board and makes conforming changes in the Illinois Procurement Code. Amends the Illinois Income Tax Act to (i) include a tax credit to a taxpayer who was required to add back insurance premiums in the amount equal to the amount of any reimbursement received from the insurance company for any loss covered by a policy for which those premiums were paid, to the extent of the federal income tax deduction that would have been allowable for the loss in computing adjusted gross income if not for the reimbursement, (ii) make changes concerning net losses, and (iii) make various administrative and technical changes. Amends the Motor Fuel Tax Law. Removes a requirement that retailers of motor fuel must report losses due to theft. Contains provisions concerning licensing of vehicles during disasters. Amends various Acts governing units of local governments to exempt the sale of modifications to a motor vehicle for the purpose of rendering it usable by a disabled person from certain taxes imposed by the units of local government. Makes other changes. Effective immediately.

LRB096 11650 HLH 22225 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Department of Revenue Law of the Civil  
5 Administrative Code of Illinois is amended by adding Section  
6 2505-800 as follows:

7 (20 ILCS 2505/2505-800 new)

8 Sec. 2505-800. Credit memorandum. Notwithstanding the  
9 provisions of any other Act to the contrary, if the Department,  
10 after review of its records and without the submission by a  
11 taxpayer of any additional documentation, returns, or  
12 schedules, determines that an overpayment has occurred on an  
13 original return filed under the Electricity Excise Tax Law, the  
14 Telecommunications Excise Tax Act, the Simplified Municipal  
15 Telecommunications Tax Act, the Telecommunications  
16 Infrastructure Maintenance Fee Act, the Gas Revenue Tax Act,  
17 the Gas Use Tax Law, the Hotel Operators' Occupation Tax Act,  
18 the Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco  
19 Products Tax Act of 1995, the Bingo License and Tax Act, the  
20 Charitable Games Act, the Illinois Pull Tabs and Jar Games Act,  
21 and the Liquor Control Act of 1934, it shall issue a credit  
22 memorandum to the taxpayer without the necessity of the  
23 taxpayer filing a claim for credit. The time period during

1 which the Department may issue a credit memorandum under this  
2 Section shall be limited to the period of 3 years from the date  
3 of the overpayment by the taxpayer. Issuance of a credit  
4 memorandum under this Section is subject to the offset  
5 provisions of Section 2505-275 of this Act.

6 Section 7. The State Finance Act is amended by changing  
7 Section 13.3 as follows:

8 (30 ILCS 105/13.3) (from Ch. 127, par. 149.3)

9 Sec. 13.3. Petty cash funds; purchasing cards.

10 (a) Any State agency may establish and maintain petty cash  
11 funds for the purpose of making change, purchasing items of  
12 small cost, payment of postage due, and for other nominal  
13 expenditures which cannot be administered economically and  
14 efficiently through customary procurement practices.

15 Petty cash funds may be established and maintained from  
16 moneys which are appropriated to the agency for Contractual  
17 Services. In the case of an agency which receives a single  
18 appropriation for its ordinary and contingent expenses, the  
19 agency may establish a petty cash fund from the appropriated  
20 funds.

21 Before the establishment of any petty cash fund, the agency  
22 shall submit to the State Comptroller a survey of the need for  
23 the fund. The survey shall also establish that sufficient  
24 internal accounting controls exist. The Comptroller shall

1 investigate such need and if he determines that it exists and  
2 that adequate accounting controls exist, shall approve the  
3 establishment of the fund. The Comptroller shall have the power  
4 to revoke any approval previously made under this Section.

5 Petty cash funds established under this Section shall be  
6 operated and maintained on the imprest system and no fund shall  
7 exceed \$1,000, except that the Department of Revenue may  
8 maintain a fund not exceeding \$2,000 for each Department of  
9 Revenue facility and the Secretary of State may maintain a fund  
10 of not exceeding \$2,000 for each Chicago Motor Vehicle  
11 Facility, each Springfield Public Service Facility, and the  
12 Motor Vehicle Facilities in Champaign, Decatur, Marion,  
13 Naperville, Peoria, Rockford, Granite City, Quincy, and  
14 Carbondale, to be used solely for the purpose of making change.  
15 Except for purchases made by procurement card as provided in  
16 subsection (b) of this Section, single transactions shall be  
17 limited to amounts less than \$50, and all transactions  
18 occurring in the fund shall be reported and accounted for as  
19 may be provided in the uniform accounting system developed by  
20 the State Comptroller and the rules and regulations  
21 implementing that accounting system. All amounts in any such  
22 fund of less than \$1,000 but over \$100 shall be kept in a  
23 checking account in a bank, or savings and loan association or  
24 trust company which is insured by the United States government  
25 or any agency of the United States government, except that in  
26 funds maintained in each Department of Revenue Facility,

1 Chicago Motor Vehicle Facilities, each Springfield Public  
2 Service Facility, and the Motor Vehicle Facilities in  
3 Champaign, Decatur, Marion, Naperville, Peoria, Rockford,  
4 Granite City, Quincy, and Carbondale, all amounts in the fund  
5 may be retained on the premises of such facilities.

6 No bank or savings and loan association shall receive  
7 public funds as permitted by this Section, unless it has  
8 complied with the requirements established pursuant to Section  
9 6 of "An Act relating to certain investments of public funds by  
10 public agencies", approved July 23, 1943, as now or hereafter  
11 amended.

12 An internal audit shall be performed of any petty cash fund  
13 which receives reimbursements of more than \$5,000 in a fiscal  
14 year.

15 Upon succession in the custodianship of any petty cash  
16 fund, both the former and successor custodians shall sign a  
17 statement, in triplicate, showing the exact status of the fund  
18 at the time of the transfer. The original copy shall be kept on  
19 file in the office wherein the fund exists, and each signer  
20 shall be entitled to retain one copy.

21 (b) The Comptroller may provide by rule for the use of  
22 purchasing cards by State agencies to pay for purchases that  
23 otherwise may be paid out of the agency's petty cash fund. Any  
24 rule adopted hereunder shall impose a single transaction limit,  
25 which shall not be greater than \$500.

26 The rules of the Comptroller may include but shall not be

1 limited to:

2 (1) standards for the issuance of purchasing cards to  
3 State agencies based upon the best interests of the State;

4 (2) procedures for recording purchasing card  
5 transactions within the State accounting system, which may  
6 provide for summary reporting;

7 (3) procedures for auditing purchasing card  
8 transactions on a post-payment basis;

9 (4) standards for awarding contracts with a purchasing  
10 card vendor to acquire purchasing cards for use by State  
11 agencies; and

12 (5) procedures for the Comptroller to charge against  
13 State agency appropriations for payment of purchasing card  
14 expenditures without the use of the voucher and warrant  
15 system.

16 (c) As used in this Section, "State agency" means any  
17 department, officer, authority, public corporation,  
18 quasi-public corporation, commission, board, institution,  
19 State college or university, or other public agency created by  
20 the State, other than units of local government and school  
21 districts.

22 (Source: P.A. 90-33, eff. 6-27-97; 91-704, eff. 7-1-00.)

23 (30 ILCS 210/8 rep.)

24 Section 10. The Illinois State Collection Act of 1986 is  
25 amended by repealing Section 8.

1           Section 15. The Illinois Procurement Code is amended by  
2 changing Sections 50-11 and 50-60 as follows:

3           (30 ILCS 500/50-11)

4           Sec. 50-11. Debt delinquency.

5           (a) No person shall submit a bid for or enter into a  
6 contract with a State agency under this Code if that person  
7 knows or should know that he or she or any affiliate is  
8 delinquent in the payment of any debt to the State, unless the  
9 person or affiliate has entered into a deferred payment plan to  
10 pay off the debt. For purposes of this Section, the phrase  
11 "delinquent in the payment of any debt" shall be determined by  
12 the Debt Collection Board or, after the effective date of this  
13 amendatory Act of the 96th General Assembly, the Department of  
14 Revenue. For purposes of this Section, the term "affiliate"  
15 means any entity that (1) directly, indirectly, or  
16 constructively controls another entity, (2) is directly,  
17 indirectly, or constructively controlled by another entity, or  
18 (3) is subject to the control of a common entity. For purposes  
19 of this subsection (a), a person controls an entity if the  
20 person owns, directly or individually, more than 10% of the  
21 voting securities of that entity. As used in this subsection  
22 (a), the term "voting security" means a security that (1)  
23 confers upon the holder the right to vote for the election of  
24 members of the board of directors or similar governing body of

1 the business or (2) is convertible into, or entitles the holder  
2 to receive upon its exercise, a security that confers such a  
3 right to vote. A general partnership interest is a voting  
4 security.

5 (b) Every bid submitted to and contract executed by the  
6 State shall contain a certification by the bidder or contractor  
7 that the contractor and its affiliate is not barred from being  
8 awarded a contract under this Section and that the contractor  
9 acknowledges that the contracting State agency may declare the  
10 contract void if the certification completed pursuant to this  
11 subsection (b) is false.

12 (Source: P.A. 92-404, eff. 7-1-02; 93-25, eff. 6-20-03.)

13 (30 ILCS 500/50-60)

14 Sec. 50-60. Voidable contracts.

15 (a) If any contract is entered into or purchase or  
16 expenditure of funds is made in violation of this Code or any  
17 other law, the contract may be declared void by the chief  
18 procurement officer or may be ratified and affirmed, provided  
19 the chief procurement officer determines that ratification is  
20 in the best interests of the State. If the contract is ratified  
21 and affirmed, it shall be without prejudice to the State's  
22 rights to any appropriate damages.

23 (b) If, during the term of a contract, the contracting  
24 agency determines that the contractor is delinquent in the  
25 payment of debt as set forth in Section 50-11 of this Code, the



1 State agency may declare the contract void if it determines  
2 that voiding the contract is in the best interests of the  
3 State. The Debt Collection Board or, after the effective date  
4 of this amendatory Act of the 96th General Assembly, the  
5 Department of Revenue shall adopt rules for the implementation  
6 of this subsection (b).

7 (c) If, during the term of a contract, the contracting  
8 agency determines that the contractor is in violation of  
9 Section 50-10.5 of this Code, the contracting agency shall  
10 declare the contract void.

11 (Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

12 Section 20. The Illinois Income Tax Act is amended by  
13 changing Sections 201, 203, 204, 205, 207, 214, 304, 502, 506,  
14 601, 701, 702, 703, 704A, 804, 909, 911, 1002, 1101, and 1405.4  
15 as follows:

16 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

17 Sec. 201. Tax Imposed.

18 (a) In general. A tax measured by net income is hereby  
19 imposed on every individual, corporation, trust and estate for  
20 each taxable year ending after July 31, 1969 on the privilege  
21 of earning or receiving income in or as a resident of this  
22 State. Such tax shall be in addition to all other occupation or  
23 privilege taxes imposed by this State or by any municipal  
24 corporation or political subdivision thereof.

1 (b) Rates. The tax imposed by subsection (a) of this  
2 Section shall be determined as follows, except as adjusted by  
3 subsection (d-1):

4 (1) In the case of an individual, trust or estate, for  
5 taxable years ending prior to July 1, 1989, an amount equal  
6 to 2 1/2% of the taxpayer's net income for the taxable  
7 year.

8 (2) In the case of an individual, trust or estate, for  
9 taxable years beginning prior to July 1, 1989 and ending  
10 after June 30, 1989, an amount equal to the sum of (i) 2  
11 1/2% of the taxpayer's net income for the period prior to  
12 July 1, 1989, as calculated under Section 202.3, and (ii)  
13 3% of the taxpayer's net income for the period after June  
14 30, 1989, as calculated under Section 202.3.

15 (3) In the case of an individual, trust or estate, for  
16 taxable years beginning after June 30, 1989, an amount  
17 equal to 3% of the taxpayer's net income for the taxable  
18 year.

19 (4) (Blank).

20 (5) (Blank).

21 (6) In the case of a corporation, for taxable years  
22 ending prior to July 1, 1989, an amount equal to 4% of the  
23 taxpayer's net income for the taxable year.

24 (7) In the case of a corporation, for taxable years  
25 beginning prior to July 1, 1989 and ending after June 30,  
26 1989, an amount equal to the sum of (i) 4% of the

1 taxpayer's net income for the period prior to July 1, 1989,  
2 as calculated under Section 202.3, and (ii) 4.8% of the  
3 taxpayer's net income for the period after June 30, 1989,  
4 as calculated under Section 202.3.

5 (8) In the case of a corporation, for taxable years  
6 beginning after June 30, 1989, an amount equal to 4.8% of  
7 the taxpayer's net income for the taxable year.

8 (c) Personal Property Tax Replacement Income Tax.  
9 Beginning on July 1, 1979 and thereafter, in addition to such  
10 income tax, there is also hereby imposed the Personal Property  
11 Tax Replacement Income Tax measured by net income on every  
12 corporation (including Subchapter S corporations), partnership  
13 and trust, for each taxable year ending after June 30, 1979.  
14 Such taxes are imposed on the privilege of earning or receiving  
15 income in or as a resident of this State. The Personal Property  
16 Tax Replacement Income Tax shall be in addition to the income  
17 tax imposed by subsections (a) and (b) of this Section and in  
18 addition to all other occupation or privilege taxes imposed by  
19 this State or by any municipal corporation or political  
20 subdivision thereof.

21 (d) Additional Personal Property Tax Replacement Income  
22 Tax Rates. The personal property tax replacement income tax  
23 imposed by this subsection and subsection (c) of this Section  
24 in the case of a corporation, other than a Subchapter S  
25 corporation and except as adjusted by subsection (d-1), shall  
26 be an additional amount equal to 2.85% of such taxpayer's net

1 income for the taxable year, except that beginning on January  
2 1, 1981, and thereafter, the rate of 2.85% specified in this  
3 subsection shall be reduced to 2.5%, and in the case of a  
4 partnership, trust or a Subchapter S corporation shall be an  
5 additional amount equal to 1.5% of such taxpayer's net income  
6 for the taxable year.

7 (d-1) Rate reduction for certain foreign insurers. In the  
8 case of a foreign insurer, as defined by Section 35A-5 of the  
9 Illinois Insurance Code, whose state or country of domicile  
10 imposes on insurers domiciled in Illinois a retaliatory tax  
11 (excluding any insurer whose premiums from reinsurance assumed  
12 are 50% or more of its total insurance premiums as determined  
13 under paragraph (2) of subsection (b) of Section 304, except  
14 that for purposes of this determination premiums from  
15 reinsurance do not include premiums from inter-affiliate  
16 reinsurance arrangements), beginning with taxable years ending  
17 on or after December 31, 1999, the sum of the rates of tax  
18 imposed by subsections (b) and (d) shall be reduced (but not  
19 increased) to the rate at which the total amount of tax imposed  
20 under this Act, net of all credits allowed under this Act,  
21 shall equal (i) the total amount of tax that would be imposed  
22 on the foreign insurer's net income allocable to Illinois for  
23 the taxable year by such foreign insurer's state or country of  
24 domicile if that net income were subject to all income taxes  
25 and taxes measured by net income imposed by such foreign  
26 insurer's state or country of domicile, net of all credits

1 allowed or (ii) a rate of zero if no such tax is imposed on such  
2 income by the foreign insurer's state of domicile. For the  
3 purposes of this subsection (d-1), an inter-affiliate includes  
4 a mutual insurer under common management.

5 (1) For the purposes of subsection (d-1), in no event  
6 shall the sum of the rates of tax imposed by subsections  
7 (b) and (d) be reduced below the rate at which the sum of:

8 (A) the total amount of tax imposed on such foreign  
9 insurer under this Act for a taxable year, net of all  
10 credits allowed under this Act, plus

11 (B) the privilege tax imposed by Section 409 of the  
12 Illinois Insurance Code, the fire insurance company  
13 tax imposed by Section 12 of the Fire Investigation  
14 Act, and the fire department taxes imposed under  
15 Section 11-10-1 of the Illinois Municipal Code,  
16 equals 1.25% for taxable years ending prior to December 31,  
17 2003, or 1.75% for taxable years ending on or after  
18 December 31, 2003, of the net taxable premiums written for  
19 the taxable year, as described by subsection (1) of Section  
20 409 of the Illinois Insurance Code. This paragraph will in  
21 no event increase the rates imposed under subsections (b)  
22 and (d).

23 (2) Any reduction in the rates of tax imposed by this  
24 subsection shall be applied first against the rates imposed  
25 by subsection (b) and only after the tax imposed by  
26 subsection (a) net of all credits allowed under this

1 Section other than the credit allowed under subsection (i)  
2 has been reduced to zero, against the rates imposed by  
3 subsection (d).

4 This subsection (d-1) is exempt from the provisions of  
5 Section 250.

6 (e) Investment credit. A taxpayer shall be allowed a credit  
7 against the Personal Property Tax Replacement Income Tax for  
8 investment in qualified property.

9 (1) A taxpayer shall be allowed a credit equal to .5%  
10 of the basis of qualified property placed in service during  
11 the taxable year, provided such property is placed in  
12 service on or after July 1, 1984. There shall be allowed an  
13 additional credit equal to .5% of the basis of qualified  
14 property placed in service during the taxable year,  
15 provided such property is placed in service on or after  
16 July 1, 1986, and the taxpayer's base employment within  
17 Illinois has increased by 1% or more over the preceding  
18 year as determined by the taxpayer's employment records  
19 filed with the Illinois Department of Employment Security.  
20 Taxpayers who are new to Illinois shall be deemed to have  
21 met the 1% growth in base employment for the first year in  
22 which they file employment records with the Illinois  
23 Department of Employment Security. The provisions added to  
24 this Section by Public Act 85-1200 (and restored by Public  
25 Act 87-895) shall be construed as declaratory of existing  
26 law and not as a new enactment. If, in any year, the

1 increase in base employment within Illinois over the  
2 preceding year is less than 1%, the additional credit shall  
3 be limited to that percentage times a fraction, the  
4 numerator of which is .5% and the denominator of which is  
5 1%, but shall not exceed .5%. The investment credit shall  
6 not be allowed to the extent that it would reduce a  
7 taxpayer's liability in any tax year below zero, nor may  
8 any credit for qualified property be allowed for any year  
9 other than the year in which the property was placed in  
10 service in Illinois. For tax years ending on or after  
11 December 31, 1987, and on or before December 31, 1988, the  
12 credit shall be allowed for the tax year in which the  
13 property is placed in service, or, if the amount of the  
14 credit exceeds the tax liability for that year, whether it  
15 exceeds the original liability or the liability as later  
16 amended, such excess may be carried forward and applied to  
17 the tax liability of the 5 taxable years following the  
18 excess credit years if the taxpayer (i) makes investments  
19 which cause the creation of a minimum of 2,000 full-time  
20 equivalent jobs in Illinois, (ii) is located in an  
21 enterprise zone established pursuant to the Illinois  
22 Enterprise Zone Act and (iii) is certified by the  
23 Department of Commerce and Community Affairs (now  
24 Department of Commerce and Economic Opportunity) as  
25 complying with the requirements specified in clause (i) and  
26 (ii) by July 1, 1986. The Department of Commerce and

1 Community Affairs (now Department of Commerce and Economic  
2 Opportunity) shall notify the Department of Revenue of all  
3 such certifications immediately. For tax years ending  
4 after December 31, 1988, the credit shall be allowed for  
5 the tax year in which the property is placed in service,  
6 or, if the amount of the credit exceeds the tax liability  
7 for that year, whether it exceeds the original liability or  
8 the liability as later amended, such excess may be carried  
9 forward and applied to the tax liability of the 5 taxable  
10 years following the excess credit years. The credit shall  
11 be applied to the earliest year for which there is a  
12 liability. If there is credit from more than one tax year  
13 that is available to offset a liability, earlier credit  
14 shall be applied first.

15 (2) The term "qualified property" means property  
16 which:

17 (A) is tangible, whether new or used, including  
18 buildings and structural components of buildings and  
19 signs that are real property, but not including land or  
20 improvements to real property that are not a structural  
21 component of a building such as landscaping, sewer  
22 lines, local access roads, fencing, parking lots, and  
23 other appurtenances;

24 (B) is depreciable pursuant to Section 167 of the  
25 Internal Revenue Code, except that "3-year property"  
26 as defined in Section 168(c)(2)(A) of that Code is not



1 eligible for the credit provided by this subsection  
2 (e);

3 (C) is acquired by purchase as defined in Section  
4 179(d) of the Internal Revenue Code;

5 (D) is used in Illinois by a taxpayer who is  
6 primarily engaged in manufacturing, or in mining coal  
7 or fluorite, or in retailing, or was placed in service  
8 on or after July 1, 2006 in a River Edge Redevelopment  
9 Zone established pursuant to the River Edge  
10 Redevelopment Zone Act; and

11 (E) has not previously been used in Illinois in  
12 such a manner and by such a person as would qualify for  
13 the credit provided by this subsection (e) or  
14 subsection (f).

15 (3) For purposes of this subsection (e),  
16 "manufacturing" means the material staging and production  
17 of tangible personal property by procedures commonly  
18 regarded as manufacturing, processing, fabrication, or  
19 assembling which changes some existing material into new  
20 shapes, new qualities, or new combinations. For purposes of  
21 this subsection (e) the term "mining" shall have the same  
22 meaning as the term "mining" in Section 613(c) of the  
23 Internal Revenue Code. For purposes of this subsection (e),  
24 the term "retailing" means the sale of tangible personal  
25 property or services rendered in conjunction with the sale  
26 of tangible consumer goods or commodities.

1           (4) The basis of qualified property shall be the basis  
2 used to compute the depreciation deduction for federal  
3 income tax purposes.

4           (5) If the basis of the property for federal income tax  
5 depreciation purposes is increased after it has been placed  
6 in service in Illinois by the taxpayer, the amount of such  
7 increase shall be deemed property placed in service on the  
8 date of such increase in basis.

9           (6) The term "placed in service" shall have the same  
10 meaning as under Section 46 of the Internal Revenue Code.

11           (7) If during any taxable year, any property ceases to  
12 be qualified property in the hands of the taxpayer within  
13 48 months after being placed in service, or the situs of  
14 any qualified property is moved outside Illinois within 48  
15 months after being placed in service, the Personal Property  
16 Tax Replacement Income Tax for such taxable year shall be  
17 increased. Such increase shall be determined by (i)  
18 recomputing the investment credit which would have been  
19 allowed for the year in which credit for such property was  
20 originally allowed by eliminating such property from such  
21 computation and, (ii) subtracting such recomputed credit  
22 from the amount of credit previously allowed. For the  
23 purposes of this paragraph (7), a reduction of the basis of  
24 qualified property resulting from a redetermination of the  
25 purchase price shall be deemed a disposition of qualified  
26 property to the extent of such reduction.

1           (8) Unless the investment credit is extended by law,  
2           the basis of qualified property shall not include costs  
3           incurred after December 31, 2008, except for costs incurred  
4           pursuant to a binding contract entered into on or before  
5           December 31, 2008.

6           (9) Each taxable year ending before December 31, 2000,  
7           a partnership may elect to pass through to its partners the  
8           credits to which the partnership is entitled under this  
9           subsection (e) for the taxable year. A partner may use the  
10          credit allocated to him or her under this paragraph only  
11          against the tax imposed in subsections (c) and (d) of this  
12          Section. If the partnership makes that election, those  
13          credits shall be allocated among the partners in the  
14          partnership in accordance with the rules set forth in  
15          Section 704(b) of the Internal Revenue Code, and the rules  
16          promulgated under that Section, and the allocated amount of  
17          the credits shall be allowed to the partners for that  
18          taxable year. The partnership shall make this election on  
19          its Personal Property Tax Replacement Income Tax return for  
20          that taxable year. The election to pass through the credits  
21          shall be irrevocable.

22          For taxable years ending on or after December 31, 2000,  
23          a partner that qualifies its partnership for a subtraction  
24          under subparagraph (I) of paragraph (2) of subsection (d)  
25          of Section 203 or a shareholder that qualifies a Subchapter  
26          S corporation for a subtraction under subparagraph (S) of

1 paragraph (2) of subsection (b) of Section 203 shall be  
2 allowed a credit under this subsection (e) equal to its  
3 share of the credit earned under this subsection (e) during  
4 the taxable year by the partnership or Subchapter S  
5 corporation, determined in accordance with the  
6 determination of income and distributive share of income  
7 under Sections 702 and 704 and Subchapter S of the Internal  
8 Revenue Code. This paragraph is exempt from the provisions  
9 of Section 250.

10 (f) Investment credit; Enterprise Zone; River Edge  
11 Redevelopment Zone.

12 (1) A taxpayer shall be allowed a credit against the  
13 tax imposed by subsections (a) and (b) of this Section for  
14 investment in qualified property which is placed in service  
15 in an Enterprise Zone created pursuant to the Illinois  
16 Enterprise Zone Act or, for property placed in service on  
17 or after July 1, 2006, a River Edge Redevelopment Zone  
18 established pursuant to the River Edge Redevelopment Zone  
19 Act. For partners, shareholders of Subchapter S  
20 corporations, and owners of limited liability companies,  
21 if the liability company is treated as a partnership for  
22 purposes of federal and State income taxation, there shall  
23 be allowed a credit under this subsection (f) to be  
24 determined in accordance with the determination of income  
25 and distributive share of income under Sections 702 and 704  
26 and Subchapter S of the Internal Revenue Code. The credit

1 shall be .5% of the basis for such property. The credit  
2 shall be available only in the taxable year in which the  
3 property is placed in service in the Enterprise Zone or  
4 River Edge Redevelopment Zone and shall not be allowed to  
5 the extent that it would reduce a taxpayer's liability for  
6 the tax imposed by subsections (a) and (b) of this Section  
7 to below zero. For tax years ending on or after December  
8 31, 1985, the credit shall be allowed for the tax year in  
9 which the property is placed in service, or, if the amount  
10 of the credit exceeds the tax liability for that year,  
11 whether it exceeds the original liability or the liability  
12 as later amended, such excess may be carried forward and  
13 applied to the tax liability of the 5 taxable years  
14 following the excess credit year. The credit shall be  
15 applied to the earliest year for which there is a  
16 liability. If there is credit from more than one tax year  
17 that is available to offset a liability, the credit  
18 accruing first in time shall be applied first.

19 (2) The term qualified property means property which:

20 (A) is tangible, whether new or used, including  
21 buildings and structural components of buildings;

22 (B) is depreciable pursuant to Section 167 of the  
23 Internal Revenue Code, except that "3-year property"  
24 as defined in Section 168(c)(2)(A) of that Code is not  
25 eligible for the credit provided by this subsection

26 (f);

1 (C) is acquired by purchase as defined in Section  
2 179(d) of the Internal Revenue Code;

3 (D) is used in the Enterprise Zone or River Edge  
4 Redevelopment Zone by the taxpayer; and

5 (E) has not been previously used in Illinois in  
6 such a manner and by such a person as would qualify for  
7 the credit provided by this subsection (f) or  
8 subsection (e).

9 (3) The basis of qualified property shall be the basis  
10 used to compute the depreciation deduction for federal  
11 income tax purposes.

12 (4) If the basis of the property for federal income tax  
13 depreciation purposes is increased after it has been placed  
14 in service in the Enterprise Zone or River Edge  
15 Redevelopment Zone by the taxpayer, the amount of such  
16 increase shall be deemed property placed in service on the  
17 date of such increase in basis.

18 (5) The term "placed in service" shall have the same  
19 meaning as under Section 46 of the Internal Revenue Code.

20 (6) If during any taxable year, any property ceases to  
21 be qualified property in the hands of the taxpayer within  
22 48 months after being placed in service, or the situs of  
23 any qualified property is moved outside the Enterprise Zone  
24 or River Edge Redevelopment Zone within 48 months after  
25 being placed in service, the tax imposed under subsections  
26 (a) and (b) of this Section for such taxable year shall be

1 increased. Such increase shall be determined by (i)  
2 recomputing the investment credit which would have been  
3 allowed for the year in which credit for such property was  
4 originally allowed by eliminating such property from such  
5 computation, and (ii) subtracting such recomputed credit  
6 from the amount of credit previously allowed. For the  
7 purposes of this paragraph (6), a reduction of the basis of  
8 qualified property resulting from a redetermination of the  
9 purchase price shall be deemed a disposition of qualified  
10 property to the extent of such reduction.

11 (7) There shall be allowed an additional credit equal  
12 to 0.5% of the basis of qualified property placed in  
13 service during the taxable year in a River Edge  
14 Redevelopment Zone, provided such property is placed in  
15 service on or after July 1, 2006, and the taxpayer's base  
16 employment within Illinois has increased by 1% or more over  
17 the preceding year as determined by the taxpayer's  
18 employment records filed with the Illinois Department of  
19 Employment Security. Taxpayers who are new to Illinois  
20 shall be deemed to have met the 1% growth in base  
21 employment for the first year in which they file employment  
22 records with the Illinois Department of Employment  
23 Security. If, in any year, the increase in base employment  
24 within Illinois over the preceding year is less than 1%,  
25 the additional credit shall be limited to that percentage  
26 times a fraction, the numerator of which is 0.5% and the

1 denominator of which is 1%, but shall not exceed 0.5%.

2 (g) Jobs Tax Credit; Enterprise Zone, River Edge  
3 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

4 (1) A taxpayer conducting a trade or business in an  
5 enterprise zone or a High Impact Business designated by the  
6 Department of Commerce and Economic Opportunity or for  
7 taxable years ending on or after December 31, 2006, in a  
8 River Edge Redevelopment Zone conducting a trade or  
9 business in a federally designated Foreign Trade Zone or  
10 Sub-Zone shall be allowed a credit against the tax imposed  
11 by subsections (a) and (b) of this Section in the amount of  
12 \$500 per eligible employee hired to work in the zone during  
13 the taxable year.

14 (2) To qualify for the credit:

15 (A) the taxpayer must hire 5 or more eligible  
16 employees to work in an enterprise zone, River Edge  
17 Redevelopment Zone, or federally designated Foreign  
18 Trade Zone or Sub-Zone during the taxable year;

19 (B) the taxpayer's total employment within the  
20 enterprise zone, River Edge Redevelopment Zone, or  
21 federally designated Foreign Trade Zone or Sub-Zone  
22 must increase by 5 or more full-time employees beyond  
23 the total employed in that zone at the end of the  
24 previous tax year for which a jobs tax credit under  
25 this Section was taken, or beyond the total employed by  
26 the taxpayer as of December 31, 1985, whichever is



1 later; and

2 (C) the eligible employees must be employed 180  
3 consecutive days in order to be deemed hired for  
4 purposes of this subsection.

5 (3) An "eligible employee" means an employee who is:

6 (A) Certified by the Department of Commerce and  
7 Economic Opportunity as "eligible for services"  
8 pursuant to regulations promulgated in accordance with  
9 Title II of the Job Training Partnership Act, Training  
10 Services for the Disadvantaged or Title III of the Job  
11 Training Partnership Act, Employment and Training  
12 Assistance for Dislocated Workers Program.

13 (B) Hired after the enterprise zone, River Edge  
14 Redevelopment Zone, or federally designated Foreign  
15 Trade Zone or Sub-Zone was designated or the trade or  
16 business was located in that zone, whichever is later.

17 (C) Employed in the enterprise zone, River Edge  
18 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.  
19 An employee is employed in an enterprise zone, River  
20 Edge Redevelopment Zone, or federally designated  
21 Foreign Trade Zone or Sub-Zone if his services are  
22 rendered there or it is the base of operations for the  
23 services performed.

24 (D) A full-time employee working 30 or more hours  
25 per week.

26 (4) For tax years ending on or after December 31, 1985

1 and prior to December 31, 1988, the credit shall be allowed  
2 for the tax year in which the eligible employees are hired.  
3 For tax years ending on or after December 31, 1988, the  
4 credit shall be allowed for the tax year immediately  
5 following the tax year in which the eligible employees are  
6 hired. If the amount of the credit exceeds the tax  
7 liability for that year, whether it exceeds the original  
8 liability or the liability as later amended, such excess  
9 may be carried forward and applied to the tax liability of  
10 the 5 taxable years following the excess credit year. The  
11 credit shall be applied to the earliest year for which  
12 there is a liability. If there is credit from more than one  
13 tax year that is available to offset a liability, earlier  
14 credit shall be applied first.

15 (5) The Department of Revenue shall promulgate such  
16 rules and regulations as may be deemed necessary to carry  
17 out the purposes of this subsection (g).

18 (6) The credit shall be available for eligible  
19 employees hired on or after January 1, 1986.

20 (h) Investment credit; High Impact Business.

21 (1) Subject to subsections (b) and (b-5) of Section 5.5  
22 of the Illinois Enterprise Zone Act, a taxpayer shall be  
23 allowed a credit against the tax imposed by subsections (a)  
24 and (b) of this Section for investment in qualified  
25 property which is placed in service by a Department of  
26 Commerce and Economic Opportunity designated High Impact

1 Business. The credit shall be .5% of the basis for such  
2 property. The credit shall not be available (i) until the  
3 minimum investments in qualified property set forth in  
4 subdivision (a)(3)(A) of Section 5.5 of the Illinois  
5 Enterprise Zone Act have been satisfied or (ii) until the  
6 time authorized in subsection (b-5) of the Illinois  
7 Enterprise Zone Act for entities designated as High Impact  
8 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and  
9 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone  
10 Act, and shall not be allowed to the extent that it would  
11 reduce a taxpayer's liability for the tax imposed by  
12 subsections (a) and (b) of this Section to below zero. The  
13 credit applicable to such investments shall be taken in the  
14 taxable year in which such investments have been completed.  
15 The credit for additional investments beyond the minimum  
16 investment by a designated high impact business authorized  
17 under subdivision (a)(3)(A) of Section 5.5 of the Illinois  
18 Enterprise Zone Act shall be available only in the taxable  
19 year in which the property is placed in service and shall  
20 not be allowed to the extent that it would reduce a  
21 taxpayer's liability for the tax imposed by subsections (a)  
22 and (b) of this Section to below zero. For tax years ending  
23 on or after December 31, 1987, the credit shall be allowed  
24 for the tax year in which the property is placed in  
25 service, or, if the amount of the credit exceeds the tax  
26 liability for that year, whether it exceeds the original

1 liability or the liability as later amended, such excess  
2 may be carried forward and applied to the tax liability of  
3 the 5 taxable years following the excess credit year. The  
4 credit shall be applied to the earliest year for which  
5 there is a liability. If there is credit from more than one  
6 tax year that is available to offset a liability, the  
7 credit accruing first in time shall be applied first.

8 Changes made in this subdivision (h) (1) by Public Act  
9 88-670 restore changes made by Public Act 85-1182 and  
10 reflect existing law.

11 (2) The term qualified property means property which:

12 (A) is tangible, whether new or used, including  
13 buildings and structural components of buildings;

14 (B) is depreciable pursuant to Section 167 of the  
15 Internal Revenue Code, except that "3-year property"  
16 as defined in Section 168(c) (2) (A) of that Code is not  
17 eligible for the credit provided by this subsection  
18 (h);

19 (C) is acquired by purchase as defined in Section  
20 179(d) of the Internal Revenue Code; and

21 (D) is not eligible for the Enterprise Zone  
22 Investment Credit provided by subsection (f) of this  
23 Section.

24 (3) The basis of qualified property shall be the basis  
25 used to compute the depreciation deduction for federal  
26 income tax purposes.

1           (4) If the basis of the property for federal income tax  
2 depreciation purposes is increased after it has been placed  
3 in service in a federally designated Foreign Trade Zone or  
4 Sub-Zone located in Illinois by the taxpayer, the amount of  
5 such increase shall be deemed property placed in service on  
6 the date of such increase in basis.

7           (5) The term "placed in service" shall have the same  
8 meaning as under Section 46 of the Internal Revenue Code.

9           (6) If during any taxable year ending on or before  
10 December 31, 1996, any property ceases to be qualified  
11 property in the hands of the taxpayer within 48 months  
12 after being placed in service, or the situs of any  
13 qualified property is moved outside Illinois within 48  
14 months after being placed in service, the tax imposed under  
15 subsections (a) and (b) of this Section for such taxable  
16 year shall be increased. Such increase shall be determined  
17 by (i) recomputing the investment credit which would have  
18 been allowed for the year in which credit for such property  
19 was originally allowed by eliminating such property from  
20 such computation, and (ii) subtracting such recomputed  
21 credit from the amount of credit previously allowed. For  
22 the purposes of this paragraph (6), a reduction of the  
23 basis of qualified property resulting from a  
24 redetermination of the purchase price shall be deemed a  
25 disposition of qualified property to the extent of such  
26 reduction.

1           (7) Beginning with tax years ending after December 31,  
2           1996, if a taxpayer qualifies for the credit under this  
3           subsection (h) and thereby is granted a tax abatement and  
4           the taxpayer relocates its entire facility in violation of  
5           the explicit terms and length of the contract under Section  
6           18-183 of the Property Tax Code, the tax imposed under  
7           subsections (a) and (b) of this Section shall be increased  
8           for the taxable year in which the taxpayer relocated its  
9           facility by an amount equal to the amount of credit  
10          received by the taxpayer under this subsection (h).

11          (i) Credit for Personal Property Tax Replacement Income  
12          Tax. For tax years ending prior to December 31, 2003, a credit  
13          shall be allowed against the tax imposed by subsections (a) and  
14          (b) of this Section for the tax imposed by subsections (c) and  
15          (d) of this Section. This credit shall be computed by  
16          multiplying the tax imposed by subsections (c) and (d) of this  
17          Section by a fraction, the numerator of which is base income  
18          allocable to Illinois and the denominator of which is Illinois  
19          base income, and further multiplying the product by the tax  
20          rate imposed by subsections (a) and (b) of this Section.

21          Any credit earned on or after December 31, 1986 under this  
22          subsection which is unused in the year the credit is computed  
23          because it exceeds the tax liability imposed by subsections (a)  
24          and (b) for that year (whether it exceeds the original  
25          liability or the liability as later amended) may be carried  
26          forward and applied to the tax liability imposed by subsections

1 (a) and (b) of the 5 taxable years following the excess credit  
2 year, provided that no credit may be carried forward to any  
3 year ending on or after December 31, 2003. This credit shall be  
4 applied first to the earliest year for which there is a  
5 liability. If there is a credit under this subsection from more  
6 than one tax year that is available to offset a liability the  
7 earliest credit arising under this subsection shall be applied  
8 first.

9 If, during any taxable year ending on or after December 31,  
10 1986, the tax imposed by subsections (c) and (d) of this  
11 Section for which a taxpayer has claimed a credit under this  
12 subsection (i) is reduced, the amount of credit for such tax  
13 shall also be reduced. Such reduction shall be determined by  
14 recomputing the credit to take into account the reduced tax  
15 imposed by subsections (c) and (d). If any portion of the  
16 reduced amount of credit has been carried to a different  
17 taxable year, an amended return shall be filed for such taxable  
18 year to reduce the amount of credit claimed.

19 (j) Training expense credit. Beginning with tax years  
20 ending on or after December 31, 1986 and prior to December 31,  
21 2003, a taxpayer shall be allowed a credit against the tax  
22 imposed by subsections (a) and (b) under this Section for all  
23 amounts paid or accrued, on behalf of all persons employed by  
24 the taxpayer in Illinois or Illinois residents employed outside  
25 of Illinois by a taxpayer, for educational or vocational  
26 training in semi-technical or technical fields or semi-skilled

1 or skilled fields, which were deducted from gross income in the  
2 computation of taxable income. The credit against the tax  
3 imposed by subsections (a) and (b) shall be 1.6% of such  
4 training expenses. For partners, shareholders of subchapter S  
5 corporations, and owners of limited liability companies, if the  
6 liability company is treated as a partnership for purposes of  
7 federal and State income taxation, there shall be allowed a  
8 credit under this subsection (j) to be determined in accordance  
9 with the determination of income and distributive share of  
10 income under Sections 702 and 704 and subchapter S of the  
11 Internal Revenue Code.

12 Any credit allowed under this subsection which is unused in  
13 the year the credit is earned may be carried forward to each of  
14 the 5 taxable years following the year for which the credit is  
15 first computed until it is used. This credit shall be applied  
16 first to the earliest year for which there is a liability. If  
17 there is a credit under this subsection from more than one tax  
18 year that is available to offset a liability the earliest  
19 credit arising under this subsection shall be applied first. No  
20 carryforward credit may be claimed in any tax year ending on or  
21 after December 31, 2003.

22 (k) Research and development credit.

23 For tax years ending after July 1, 1990 and prior to  
24 December 31, 2003, and beginning again for tax years ending on  
25 or after December 31, 2004, a taxpayer shall be allowed a  
26 credit against the tax imposed by subsections (a) and (b) of



1 this Section for increasing research activities in this State.  
2 The credit allowed against the tax imposed by subsections (a)  
3 and (b) shall be equal to 6 1/2% of the qualifying expenditures  
4 for increasing research activities in this State. For partners,  
5 shareholders of subchapter S corporations, and owners of  
6 limited liability companies, if the liability company is  
7 treated as a partnership for purposes of federal and State  
8 income taxation, there shall be allowed a credit under this  
9 subsection to be determined in accordance with the  
10 determination of income and distributive share of income under  
11 Sections 702 and 704 and subchapter S of the Internal Revenue  
12 Code.

13 For purposes of this subsection, "qualifying expenditures"  
14 means the qualifying expenditures as defined for the federal  
15 credit for increasing research activities which would be  
16 allowable under Section 41 of the Internal Revenue Code and  
17 which are conducted in this State, "qualifying expenditures for  
18 increasing research activities in this State" means the excess  
19 of qualifying expenditures for the taxable year in which  
20 incurred over qualifying expenditures for the base period,  
21 "qualifying expenditures for the base period" means the average  
22 of the qualifying expenditures for each year in the base  
23 period, and "base period" means the 3 taxable years immediately  
24 preceding the taxable year for which the determination is being  
25 made.

26 Any credit in excess of the tax liability for the taxable

1 year may be carried forward. A taxpayer may elect to have the  
2 unused credit shown on its final completed return carried over  
3 as a credit against the tax liability for the following 5  
4 taxable years or until it has been fully used, whichever occurs  
5 first; provided that no credit earned in a tax year ending  
6 prior to December 31, 2003 may be carried forward to any year  
7 ending on or after December 31, 2003.

8 If an unused credit is carried forward to a given year from  
9 2 or more earlier years, that credit arising in the earliest  
10 year will be applied first against the tax liability for the  
11 given year. If a tax liability for the given year still  
12 remains, the credit from the next earliest year will then be  
13 applied, and so on, until all credits have been used or no tax  
14 liability for the given year remains. Any remaining unused  
15 credit or credits then will be carried forward to the next  
16 following year in which a tax liability is incurred, except  
17 that no credit can be carried forward to a year which is more  
18 than 5 years after the year in which the expense for which the  
19 credit is given was incurred.

20 No inference shall be drawn from this amendatory Act of the  
21 91st General Assembly in construing this Section for taxable  
22 years beginning before January 1, 1999.

23 (1) Environmental Remediation Tax Credit.

24 (i) For tax years ending after December 31, 1997 and on  
25 or before December 31, 2001, a taxpayer shall be allowed a  
26 credit against the tax imposed by subsections (a) and (b)

1 of this Section for certain amounts paid for unreimbursed  
2 eligible remediation costs, as specified in this  
3 subsection. For purposes of this Section, "unreimbursed  
4 eligible remediation costs" means costs approved by the  
5 Illinois Environmental Protection Agency ("Agency") under  
6 Section 58.14 of the Environmental Protection Act that were  
7 paid in performing environmental remediation at a site for  
8 which a No Further Remediation Letter was issued by the  
9 Agency and recorded under Section 58.10 of the  
10 Environmental Protection Act. The credit must be claimed  
11 for the taxable year in which Agency approval of the  
12 eligible remediation costs is granted. The credit is not  
13 available to any taxpayer if the taxpayer or any related  
14 party caused or contributed to, in any material respect, a  
15 release of regulated substances on, in, or under the site  
16 that was identified and addressed by the remedial action  
17 pursuant to the Site Remediation Program of the  
18 Environmental Protection Act. After the Pollution Control  
19 Board rules are adopted pursuant to the Illinois  
20 Administrative Procedure Act for the administration and  
21 enforcement of Section 58.9 of the Environmental  
22 Protection Act, determinations as to credit availability  
23 for purposes of this Section shall be made consistent with  
24 those rules. For purposes of this Section, "taxpayer"  
25 includes a person whose tax attributes the taxpayer has  
26 succeeded to under Section 381 of the Internal Revenue Code

1 and "related party" includes the persons disallowed a  
2 deduction for losses by paragraphs (b), (c), and (f)(1) of  
3 Section 267 of the Internal Revenue Code by virtue of being  
4 a related taxpayer, as well as any of its partners. The  
5 credit allowed against the tax imposed by subsections (a)  
6 and (b) shall be equal to 25% of the unreimbursed eligible  
7 remediation costs in excess of \$100,000 per site, except  
8 that the \$100,000 threshold shall not apply to any site  
9 contained in an enterprise zone as determined by the  
10 Department of Commerce and Community Affairs (now  
11 Department of Commerce and Economic Opportunity). The  
12 total credit allowed shall not exceed \$40,000 per year with  
13 a maximum total of \$150,000 per site. For partners and  
14 shareholders of subchapter S corporations, there shall be  
15 allowed a credit under this subsection to be determined in  
16 accordance with the determination of income and  
17 distributive share of income under Sections 702 and 704 and  
18 subchapter S of the Internal Revenue Code.

19 (ii) A credit allowed under this subsection that is  
20 unused in the year the credit is earned may be carried  
21 forward to each of the 5 taxable years following the year  
22 for which the credit is first earned until it is used. The  
23 term "unused credit" does not include any amounts of  
24 unreimbursed eligible remediation costs in excess of the  
25 maximum credit per site authorized under paragraph (i).  
26 This credit shall be applied first to the earliest year for

1           which there is a liability. If there is a credit under this  
2           subsection from more than one tax year that is available to  
3           offset a liability, the earliest credit arising under this  
4           subsection shall be applied first. A credit allowed under  
5           this subsection may be sold to a buyer as part of a sale of  
6           all or part of the remediation site for which the credit  
7           was granted. The purchaser of a remediation site and the  
8           tax credit shall succeed to the unused credit and remaining  
9           carry-forward period of the seller. To perfect the  
10          transfer, the assignor shall record the transfer in the  
11          chain of title for the site and provide written notice to  
12          the Director of the Illinois Department of Revenue of the  
13          assignor's intent to sell the remediation site and the  
14          amount of the tax credit to be transferred as a portion of  
15          the sale. In no event may a credit be transferred to any  
16          taxpayer if the taxpayer or a related party would not be  
17          eligible under the provisions of subsection (i).

18                 (iii) For purposes of this Section, the term "site"  
19                 shall have the same meaning as under Section 58.2 of the  
20                 Environmental Protection Act.

21                 (m) Education expense credit. Beginning with tax years  
22                 ending after December 31, 1999, a taxpayer who is the custodian  
23                 of one or more qualifying pupils shall be allowed a credit  
24                 against the tax imposed by subsections (a) and (b) of this  
25                 Section for qualified education expenses incurred on behalf of  
26                 the qualifying pupils. The credit shall be equal to 25% of

1 qualified education expenses, but in no event may the total  
2 credit under this subsection claimed by a family that is the  
3 custodian of qualifying pupils exceed \$500. In no event shall a  
4 credit under this subsection reduce the taxpayer's liability  
5 under this Act to less than zero. This subsection is exempt  
6 from the provisions of Section 250 of this Act.

7 For purposes of this subsection:

8 "Qualifying pupils" means individuals who (i) are  
9 residents of the State of Illinois, (ii) are under the age of  
10 21 at the close of the school year for which a credit is  
11 sought, and (iii) during the school year for which a credit is  
12 sought were full-time pupils enrolled in a kindergarten through  
13 twelfth grade education program at any school, as defined in  
14 this subsection.

15 "Qualified education expense" means the amount incurred on  
16 behalf of a qualifying pupil in excess of \$250 for tuition,  
17 book fees, and lab fees at the school in which the pupil is  
18 enrolled during the regular school year.

19 "School" means any public or nonpublic elementary or  
20 secondary school in Illinois that is in compliance with Title  
21 VI of the Civil Rights Act of 1964 and attendance at which  
22 satisfies the requirements of Section 26-1 of the School Code,  
23 except that nothing shall be construed to require a child to  
24 attend any particular public or nonpublic school to qualify for  
25 the credit under this Section.

26 "Custodian" means, with respect to qualifying pupils, an

1 Illinois resident who is a parent, the parents, a legal  
2 guardian, or the legal guardians of the qualifying pupils.

3 (n) River Edge Redevelopment Zone site remediation tax  
4 credit.

5 (i) For tax years ending on or after December 31, 2006,  
6 a taxpayer shall be allowed a credit against the tax  
7 imposed by subsections (a) and (b) of this Section for  
8 certain amounts paid for unreimbursed eligible remediation  
9 costs, as specified in this subsection. For purposes of  
10 this Section, "unreimbursed eligible remediation costs"  
11 means costs approved by the Illinois Environmental  
12 Protection Agency ("Agency") under Section 58.14a of the  
13 Environmental Protection Act that were paid in performing  
14 environmental remediation at a site within a River Edge  
15 Redevelopment Zone for which a No Further Remediation  
16 Letter was issued by the Agency and recorded under Section  
17 58.10 of the Environmental Protection Act. The credit must  
18 be claimed for the taxable year in which Agency approval of  
19 the eligible remediation costs is granted. The credit is  
20 not available to any taxpayer if the taxpayer or any  
21 related party caused or contributed to, in any material  
22 respect, a release of regulated substances on, in, or under  
23 the site that was identified and addressed by the remedial  
24 action pursuant to the Site Remediation Program of the  
25 Environmental Protection Act. Determinations as to credit  
26 availability for purposes of this Section shall be made

1 consistent with rules adopted by the Pollution Control  
2 Board pursuant to the Illinois Administrative Procedure  
3 Act for the administration and enforcement of Section 58.9  
4 of the Environmental Protection Act. For purposes of this  
5 Section, "taxpayer" includes a person whose tax attributes  
6 the taxpayer has succeeded to under Section 381 of the  
7 Internal Revenue Code and "related party" includes the  
8 persons disallowed a deduction for losses by paragraphs  
9 (b), (c), and (f) (1) of Section 267 of the Internal Revenue  
10 Code by virtue of being a related taxpayer, as well as any  
11 of its partners. The credit allowed against the tax imposed  
12 by subsections (a) and (b) shall be equal to 25% of the  
13 unreimbursed eligible remediation costs in excess of  
14 \$100,000 per site.

15 (ii) A credit allowed under this subsection that is  
16 unused in the year the credit is earned may be carried  
17 forward to each of the 5 taxable years following the year  
18 for which the credit is first earned until it is used. This  
19 credit shall be applied first to the earliest year for  
20 which there is a liability. If there is a credit under this  
21 subsection from more than one tax year that is available to  
22 offset a liability, the earliest credit arising under this  
23 subsection shall be applied first. A credit allowed under  
24 this subsection may be sold to a buyer as part of a sale of  
25 all or part of the remediation site for which the credit  
26 was granted. The purchaser of a remediation site and the



1 tax credit shall succeed to the unused credit and remaining  
2 carry-forward period of the seller. To perfect the  
3 transfer, the assignor shall record the transfer in the  
4 chain of title for the site and provide written notice to  
5 the Director of the Illinois Department of Revenue of the  
6 assignor's intent to sell the remediation site and the  
7 amount of the tax credit to be transferred as a portion of  
8 the sale. In no event may a credit be transferred to any  
9 taxpayer if the taxpayer or a related party would not be  
10 eligible under the provisions of subsection (i).

11 (iii) For purposes of this Section, the term "site"  
12 shall have the same meaning as under Section 58.2 of the  
13 Environmental Protection Act.

14 (iv) This subsection is exempt from the provisions of  
15 Section 250.

16 (Source: P.A. 94-1021, eff. 7-12-06; 95-454, eff. 8-27-07.)

17 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

18 Sec. 203. Base income defined.

19 (a) Individuals.

20 (1) In general. In the case of an individual, base  
21 income means an amount equal to the taxpayer's adjusted  
22 gross income for the taxable year as modified by paragraph  
23 (2).

24 (2) Modifications. The adjusted gross income referred  
25 to in paragraph (1) shall be modified by adding thereto the

1           sum of the following amounts:

2                   (A) An amount equal to all amounts paid or accrued  
3                   to the taxpayer as interest or dividends during the  
4                   taxable year to the extent excluded from gross income  
5                   in the computation of adjusted gross income, except  
6                   stock dividends of qualified public utilities  
7                   described in Section 305(e) of the Internal Revenue  
8                   Code;

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

13                   (C) An amount equal to the amount received during  
14                   the taxable year as a recovery or refund of real  
15                   property taxes paid with respect to the taxpayer's  
16                   principal residence under the Revenue Act of 1939 and  
17                   for which a deduction was previously taken under  
18                   subparagraph (L) of this paragraph (2) prior to July 1,  
19                   1991, the retrospective application date of Article 4  
20                   of Public Act 87-17. In the case of multi-unit or  
21                   multi-use structures and farm dwellings, the taxes on  
22                   the taxpayer's principal residence shall be that  
23                   portion of the total taxes for the entire property  
24                   which is attributable to such principal residence;

25                   (D) An amount equal to the amount of the capital  
26                   gain deduction allowable under the Internal Revenue

1 Code, to the extent deducted from gross income in the  
2 computation of adjusted gross income;

3 (D-5) An amount, to the extent not included in  
4 adjusted gross income, equal to the amount of money  
5 withdrawn by the taxpayer in the taxable year from a  
6 medical care savings account and the interest earned on  
7 the account in the taxable year of a withdrawal  
8 pursuant to subsection (b) of Section 20 of the Medical  
9 Care Savings Account Act or subsection (b) of Section  
10 20 of the Medical Care Savings Account Act of 2000;

11 (D-10) For taxable years ending after December 31,  
12 1997, an amount equal to any eligible remediation costs  
13 that the individual deducted in computing adjusted  
14 gross income and for which the individual claims a  
15 credit under subsection (l) of Section 201;

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

21 (D-16) If the taxpayer sells, transfers, abandons,  
22 or otherwise disposes of property for which the  
23 taxpayer was required in any taxable year to make an  
24 addition modification under subparagraph (D-15), then  
25 an amount equal to the aggregate amount of the  
26 deductions taken in all taxable years under

1           subparagraph (Z) with respect to that property.

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

9           The taxpayer is required to make the addition  
10          modification under this subparagraph only once with  
11          respect to any one piece of property;

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

1 subsections of Section 304. The addition modification  
2 required by this subparagraph shall be reduced to the  
3 extent that dividends were included in base income of  
4 the unitary group for the same taxable year and  
5 received by the taxpayer or by a member of the  
6 taxpayer's unitary business group (including amounts  
7 included in gross income under Sections 951 through 964  
8 of the Internal Revenue Code and amounts included in  
9 gross income under Section 78 of the Internal Revenue  
10 Code) with respect to the stock of the same person to  
11 whom the interest was paid, accrued, or incurred.

12 This paragraph shall not apply to the following:

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

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

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

1 (b) the transaction giving rise to the  
2 interest expense between the taxpayer and the  
3 person did not have as a principal purpose the  
4 avoidance of Illinois income tax, and is paid  
5 pursuant to a contract or agreement that  
6 reflects an arm's-length interest rate and  
7 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 person if  
16 the taxpayer establishes by clear and convincing  
17 evidence that the adjustments are unreasonable; or  
18 if the taxpayer and the Director agree in writing  
19 to the application or use of an alternative method  
20 of apportionment under Section 304(f).

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

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

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

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

23 This paragraph shall not apply to the following:

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



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

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

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

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

20 or

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

1 writing to the application or use of an alternative  
2 method of apportionment under Section 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-19) For taxable years ending on or after  
13 December 31, 2008, an amount equal to the amount of  
14 insurance premium expenses and costs otherwise allowed  
15 as a deduction in computing base income, and that were  
16 paid, accrued, or incurred, directly or indirectly, to  
17 a 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 premiums and costs were  
7 directly or indirectly paid, incurred, or accrued. The  
8 preceding sentence does not apply to the extent that  
9 the same dividends caused a reduction to the addition  
10 modification required under Section 203(a)(2)(D-17) or  
11 Section 203(a)(2)(D-18) of this Act.

12 (D-20) For taxable years beginning on or after  
13 January 1, 2002 and ending on or before December 31,  
14 2006, in the case of a distribution from a qualified  
15 tuition program under Section 529 of the Internal  
16 Revenue Code, other than (i) a distribution from a  
17 College Savings Pool created under Section 16.5 of the  
18 State Treasurer Act or (ii) a distribution from the  
19 Illinois Prepaid Tuition Trust Fund, an amount equal to  
20 the amount excluded from gross income under Section  
21 529(c)(3)(B). For taxable years beginning on or after  
22 January 1, 2007, in the case of a distribution from a  
23 qualified tuition program under Section 529 of the  
24 Internal Revenue Code, other than (i) a distribution  
25 from a College Savings Pool created under Section 16.5  
26 of the State Treasurer Act, (ii) a distribution from

1 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
2 distribution from a qualified tuition program under  
3 Section 529 of the Internal Revenue Code that (I)  
4 adopts and determines that its offering materials  
5 comply with the College Savings Plans Network's  
6 disclosure principles and (II) has made reasonable  
7 efforts to inform in-state residents of the existence  
8 of in-state qualified tuition programs by informing  
9 Illinois residents directly and, where applicable, to  
10 inform financial intermediaries distributing the  
11 program to inform in-state residents of the existence  
12 of in-state qualified tuition programs at least  
13 annually, an amount equal to the amount excluded from  
14 gross income under Section 529(c)(3)(B).

15 For the purposes of this subparagraph (D-20), a  
16 qualified tuition program has made reasonable efforts  
17 if it makes disclosures (which may use the term  
18 "in-state program" or "in-state plan" and need not  
19 specifically refer to Illinois or its qualified  
20 programs by name) (i) directly to prospective  
21 participants in its offering materials or makes a  
22 public disclosure, such as a website posting; and (ii)  
23 where applicable, to intermediaries selling the  
24 out-of-state program in the same manner that the  
25 out-of-state program distributes its offering  
26 materials;

1                   (D-21) For taxable years beginning on or after  
2                   January 1, 2007, in the case of transfer of moneys from  
3                   a qualified tuition program under Section 529 of the  
4                   Internal Revenue Code that is administered by the State  
5                   to an out-of-state program, an amount equal to the  
6                   amount of moneys previously deducted from base income  
7                   under subsection (a) (2) (Y) of this Section.

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

10                   (E) For taxable years ending before December 31,  
11                   2001, any amount included in such total in respect of  
12                   any compensation (including but not limited to any  
13                   compensation paid or accrued to a serviceman while a  
14                   prisoner of war or missing in action) paid to a  
15                   resident by reason of being on active duty in the Armed  
16                   Forces of the United States and in respect of any  
17                   compensation paid or accrued to a resident who as a  
18                   governmental employee was a prisoner of war or missing  
19                   in action, and in respect of any compensation paid to a  
20                   resident in 1971 or thereafter for annual training  
21                   performed pursuant to Sections 502 and 503, Title 32,  
22                   United States Code as a member of the Illinois National  
23                   Guard or, beginning with taxable years ending on or  
24                   after December 31, 2007, the National Guard of any  
25                   other state. For taxable years ending on or after  
26                   December 31, 2001, any amount included in such total in

1 respect of any compensation (including but not limited  
2 to any compensation paid or accrued to a serviceman  
3 while a prisoner of war or missing in action) paid to a  
4 resident by reason of being a member of any component  
5 of the Armed Forces of the United States and in respect  
6 of any compensation paid or accrued to a resident who  
7 as a governmental employee was a prisoner of war or  
8 missing in action, and in respect of any compensation  
9 paid to a resident in 2001 or thereafter by reason of  
10 being a member of the Illinois National Guard or,  
11 beginning with taxable years ending on or after  
12 December 31, 2007, the National Guard of any other  
13 state. The provisions of this subparagraph (E)  
14 ~~amendatory Act of the 92nd General Assembly~~ are exempt  
15 from the provisions of Section 250;

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

1 (G) The valuation limitation amount;

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

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

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

20 (K) 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 (J) of paragraph (2) of this subsection

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

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

8 (M) With the exception of any amounts subtracted  
9 under subparagraph (N), an amount equal to the sum of  
10 all amounts disallowed as deductions by (i) Sections  
11 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~  
12 ~~1954, as now or hereafter amended~~, and all amounts of  
13 expenses allocable to interest and disallowed as  
14 deductions by Section 265(1) of the Internal Revenue  
15 Code ~~of 1954, as now or hereafter amended~~; and (ii) for  
16 taxable years ending on or after August 13, 1999,  
17 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
18 the Internal Revenue Code, plus, for taxable years  
19 ending on or after December 31, 2009, Section 45G(e) (3)  
20 of the Internal Revenue Code; the provisions of this  
21 subparagraph are exempt from the provisions of Section  
22 250;

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



1 United States; provided that, in the case of any  
2 statute of this State that exempts income derived from  
3 bonds or other obligations from the tax imposed under  
4 this Act, the amount exempted shall be the interest net  
5 of bond premium amortization;

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

9 (P) An amount equal to the amount of the deduction  
10 used to compute the federal income tax credit for  
11 restoration of substantial amounts held under claim of  
12 right for the taxable year pursuant to Section 1341 of  
13 the Internal Revenue Code or of any itemized deduction  
14 taken from adjusted gross income in the computation of  
15 taxable income for restoration of substantial amounts  
16 held under claim of right for the taxable year of 1986;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 The aggregate amount deducted under this

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

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

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

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

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

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

1 ridesharing arrangement using a motor vehicle;

2 (CC) The amount of (i) any interest income (net of  
3 the deductions allocable thereto) taken into account  
4 for the taxable year with respect to a transaction with  
5 a taxpayer that is required to make an addition  
6 modification with respect to such transaction under  
7 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
8 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
9 the amount of that addition modification, and (ii) any  
10 income from intangible property (net of the deductions  
11 allocable thereto) taken into account for the taxable  
12 year with respect to a transaction with a taxpayer that  
13 is required to make an addition modification with  
14 respect to such transaction under Section  
15 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
16 203(d)(2)(D-8), but not to exceed the amount of that  
17 addition modification. This subparagraph (CC) is  
18 exempt from the provisions of Section 250;

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



1 years ending on or after December 31, 2008, to a person  
2 who would be a member of the same unitary business  
3 group but for the fact that the person is prohibited  
4 under Section 1501(a)(27) from being included in the  
5 unitary business group because he or she is ordinarily  
6 required to apportion business income under different  
7 subsections of Section 304, but not to exceed the  
8 addition modification required to be made for the same  
9 taxable year under Section 203(a)(2)(D-17) for  
10 interest paid, accrued, or incurred, directly or  
11 indirectly, to the same person. This subparagraph (DD)  
12 is exempt from the provisions of Section 250; ~~and~~

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

1 subsections of Section 304, but not to exceed the  
2 addition modification required to be made for the same  
3 taxable year under Section 203(a)(2)(D-18) for  
4 intangible expenses and costs paid, accrued, or  
5 incurred, directly or indirectly, to the same foreign  
6 person. This subparagraph (EE) is exempt from the  
7 provisions of Section 250; and

8 (FF) For taxable years ending on or after December  
9 31, 2009, in the case of a taxpayer who was required to  
10 add back any insurance premiums under Section  
11 203(a)(2)(D-19), an amount equal to the amount of any  
12 reimbursement received from the insurance company for  
13 any loss covered by a policy for which those premiums  
14 were paid, to the extent of the federal income tax  
15 deduction that would have been allowable for the loss  
16 in computing adjusted gross income if not for the  
17 reimbursement. This subparagraph (FF) is exempt from  
18 the provisions of Section 250.

19 (b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 respect to any one piece of property;

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

1 same person to whom the interest was paid, accrued, or  
2 incurred.

3 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) the taxpayer can establish, based on  
26 clear and convincing evidence, that the interest

1           paid, accrued, or incurred relates to a contract or  
2           agreement entered into at arm's-length rates and  
3           terms and the principal purpose for the payment is  
4           not federal or Illinois tax avoidance; or

5           (iv) an item of interest paid, accrued, or  
6           incurred, directly or indirectly, to a person if  
7           the taxpayer establishes by clear and convincing  
8           evidence that the adjustments are unreasonable; or  
9           if the taxpayer and the Director agree in writing  
10          to the application or use of an alternative method  
11          of apportionment under Section 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          (E-13) An amount equal to the amount of intangible  
22          expenses and costs otherwise allowed as a deduction in  
23          computing base income, and that were paid, accrued, or  
24          incurred, directly or indirectly, (i) for taxable  
25          years ending on or after December 31, 2004, to a  
26          foreign person who would be a member of the same



1 unitary business group but for the fact that the  
2 foreign person's business activity outside the United  
3 States is 80% or more of that person's total business  
4 activity and (ii) for taxable years ending on or after  
5 December 31, 2008, 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. The addition modification required by this  
12 subparagraph shall be reduced to the extent that  
13 dividends were included in base income of the unitary  
14 group for the same taxable year and received by the  
15 taxpayer or by a member of the taxpayer's unitary  
16 business group (including amounts included in gross  
17 income pursuant to Sections 951 through 964 of the  
18 Internal Revenue Code and amounts included in gross  
19 income under Section 78 of the Internal Revenue Code)  
20 with respect to the stock of the same person to whom  
21 the intangible expenses and costs were directly or  
22 indirectly paid, incurred, or accrued. The preceding  
23 sentence shall not apply to the extent that the same  
24 dividends caused a reduction to the addition  
25 modification required under Section 203(b)(2)(E-12) of  
26 this Act. As used in this subparagraph, the term

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

14 This paragraph shall not apply to the following:

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

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

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

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

12          (iii) any item of intangible expense or cost  
13          paid, accrued, or incurred, directly or  
14          indirectly, from a transaction with a person if the  
15          taxpayer establishes by clear and convincing  
16          evidence, that the adjustments are unreasonable;  
17          or if the taxpayer and the Director agree in  
18          writing to the application or use of an alternative  
19          method of apportionment under Section 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-14) For taxable years ending on or after  
4           December 31, 2008, an amount equal to the amount of  
5           insurance premium expenses and costs otherwise allowed  
6           as a deduction in computing base income, and that were  
7           paid, accrued, or incurred, directly or indirectly, to  
8           a person who would be a member of the same unitary  
9           business group but for the fact that the person is  
10          prohibited under Section 1501(a)(27) from being  
11          included in the unitary business group because he or  
12          she is ordinarily required to apportion business  
13          income under different subsections of Section 304. The  
14          addition modification required by this subparagraph  
15          shall be reduced to the extent that dividends were  
16          included in base income of the unitary group for the  
17          same taxable year and received by the taxpayer or by a  
18          member of the taxpayer's unitary business group  
19          (including amounts included in gross income under  
20          Sections 951 through 964 of the Internal Revenue Code  
21          and amounts included in gross income under Section 78  
22          of the Internal Revenue Code) with respect to the stock  
23          of the same person to whom the premiums and costs were  
24          directly or indirectly paid, incurred, or accrued. The  
25          preceding sentence does not apply to the extent that  
26          the same dividends caused a reduction to the addition

1 modification required under Section 203(b) (2) (E-12) or  
2 Section 203(b) (2) (E-13) of this Act;

3 (E-15) For taxable years beginning after December  
4 31, 2008, any deduction for dividends paid by a captive  
5 real estate investment trust that is allowed to a real  
6 estate investment trust under Section 857(b) (2) (B) of  
7 the Internal Revenue Code for dividends paid;

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

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

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

15 (H) In the case of a regulated investment company,  
16 an amount equal to the amount of exempt interest  
17 dividends as defined in subsection (b) (5) of Section  
18 852 of the Internal Revenue Code, paid to shareholders  
19 for the taxable year;

20 (I) With the exception of any amounts subtracted  
21 under subparagraph (J), an amount equal to the sum of  
22 all amounts disallowed as deductions by (i) Sections  
23 171(a) (2), and 265(a) (2) and amounts disallowed as  
24 interest expense by Section 291(a) (3) of the Internal  
25 Revenue Code, ~~as now or hereafter amended~~, and all  
26 amounts of expenses allocable to interest and

1 disallowed as deductions by Section 265(a)(1) of the  
2 Internal Revenue Code, ~~as now or hereafter amended~~; and  
3 (ii) for taxable years ending on or after August 13,  
4 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and  
5 832(b)(5)(B)(i) of the Internal Revenue Code, plus,  
6 for tax years ending on or after December 31, 2009,  
7 amounts disallowed as deductions by Section 45G(e)(3)  
8 of the Internal Revenue Code and the policyholders'  
9 share of tax-exempt interest of a life insurance  
10 company under Section 807(a)(2)(B) of the Internal  
11 Revenue Code (in the case of a life insurance company  
12 with gross income from a decrease in reserves for the  
13 tax year) or Section 807(b)(1)(B) of the Internal  
14 Revenue Code (in the case of a life insurance company  
15 allowed a deduction for an increase in reserves for the  
16 tax year); the provisions of this subparagraph are  
17 exempt from the provisions of Section 250;

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

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

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

20           (M) For any taxpayer that is a financial  
21 organization within the meaning of Section 304(c) of  
22 this Act, an amount included in such total as interest  
23 income from a loan or loans made by such taxpayer to a  
24 borrower, to the extent that such a loan is secured by  
25 property which is eligible for the Enterprise Zone  
26 Investment Credit or the River Edge Redevelopment Zone

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

18 (M-1) For any taxpayer that is a financial  
19 organization within the meaning of Section 304(c) of  
20 this Act, an amount included in such total as interest  
21 income from a loan or loans made by such taxpayer to a  
22 borrower, to the extent that such a loan is secured by  
23 property which is eligible for the High Impact Business  
24 Investment Credit. To determine the portion of a loan  
25 or loans that is secured by property eligible for a  
26 Section 201(h) investment credit to the borrower, the



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

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

1 Section 250;

2 (O) An amount equal to: (i) 85% for taxable years  
3 ending on or before December 31, 1992, or, a percentage  
4 equal to the percentage allowable under Section  
5 243(a)(1) of the Internal Revenue Code ~~of 1986~~ for  
6 taxable years ending after December 31, 1992, of the  
7 amount by which dividends included in taxable income  
8 and received from a corporation that is not created or  
9 organized under the laws of the United States or any  
10 state or political subdivision thereof, including, for  
11 taxable years ending on or after December 31, 1988,  
12 dividends received or deemed received or paid or deemed  
13 paid under Sections 951 through 965 ~~964~~ of the Internal  
14 Revenue Code, exceed the amount of the modification  
15 provided under subparagraph (G) of paragraph (2) of  
16 this subsection (b) which is related to such dividends,  
17 and including, for taxable years ending on or after  
18 December 31, 2008, dividends received from a captive  
19 real estate investment trust; plus (ii) 100% of the  
20 amount by which dividends, included in taxable income  
21 and received, including, for taxable years ending on or  
22 after December 31, 1988, dividends received or deemed  
23 received or paid or deemed paid under Sections 951  
24 through 964 of the Internal Revenue Code and including,  
25 for taxable years ending on or after December 31, 2008,  
26 dividends received from a captive real estate

1 investment trust, from any such corporation specified  
2 in clause (i) that would but for the provisions of  
3 Section 1504 (b) (3) of the Internal Revenue Code be  
4 treated as a member of the affiliated group which  
5 includes the dividend recipient, exceed the amount of  
6 the modification provided under subparagraph (G) of  
7 paragraph (2) of this subsection (b) which is related  
8 to such dividends. This subparagraph (O) is exempt from  
9 the provisions of Section 250 of this Act;

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

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

18 (R) On and after July 20, 1999, in the case of an  
19 attorney-in-fact with respect to whom an interinsurer  
20 or a reciprocal insurer has made the election under  
21 Section 835 of the Internal Revenue Code, 26 U.S.C.  
22 835, an amount equal to the excess, if any, of the  
23 amounts paid or incurred by that interinsurer or  
24 reciprocal insurer in the taxable year to the  
25 attorney-in-fact over the deduction allowed to that  
26 interinsurer or reciprocal insurer with respect to the

1 attorney-in-fact under Section 835(b) of the Internal  
2 Revenue Code for the taxable year; the provisions of  
3 this subparagraph are exempt from the provisions of  
4 Section 250;

5 (S) For taxable years ending on or after December  
6 31, 1997, in the case of a Subchapter S corporation, an  
7 amount equal to all amounts of income allocable to a  
8 shareholder subject to the Personal Property Tax  
9 Replacement Income Tax imposed by subsections (c) and  
10 (d) of Section 201 of this Act, including amounts  
11 allocable to organizations exempt from federal income  
12 tax by reason of Section 501(a) of the Internal Revenue  
13 Code. This subparagraph (S) is exempt from the  
14 provisions of Section 250;

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

21 (1) "y" equals the amount of the depreciation  
22 deduction taken for the taxable year on the  
23 taxpayer's federal income tax return on property  
24 for which the bonus depreciation deduction was  
25 taken in any year under subsection (k) of Section  
26 168 of the Internal Revenue Code, but not including

1 the bonus depreciation deduction;

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

6 (3) for taxable years ending after December  
7 31, 2005:

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

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

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

25 (U) If the taxpayer sells, transfers, abandons, or  
26 otherwise disposes of property for which the taxpayer

1 was required in any taxable year to make an addition  
2 modification under subparagraph (E-10), then an amount  
3 equal to that addition modification.

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

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

14 This subparagraph (U) is exempt from the  
15 provisions of Section 250;

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

1 is required to make an addition modification with  
2 respect to such transaction under Section  
3 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
4 203(d)(2)(D-8), but not to exceed the amount of such  
5 addition modification, and (iii) any insurance premium  
6 income (net of deductions allocable thereto, including  
7 adjustments to loss reserves and payments for losses  
8 with respect to a policy for which the premium was  
9 received) taken into account for the taxable year with  
10 respect to a transaction with a taxpayer that is  
11 required to make an addition modification with respect  
12 to such transaction under Section 203(a)(2)(D-19),  
13 Section 203(b)(2)(E-14), Section 203(c)(2)(G-14), or  
14 Section 203(d)(2)(D-9), but not to exceed the amount of  
15 that addition modification. This subparagraph (V) is  
16 exempt from the provisions of Section 250;

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

1 group but for the fact that the person is prohibited  
2 under Section 1501(a)(27) from being included in the  
3 unitary business group because he or she is ordinarily  
4 required to apportion business income under different  
5 subsections of Section 304, but not to exceed the  
6 addition modification required to be made for the same  
7 taxable year under Section 203(b)(2)(E-12) for  
8 interest paid, accrued, or incurred, directly or  
9 indirectly, to the same person. This subparagraph (W)  
10 is exempt from the provisions of Section 250; ~~and~~

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



1 taxable year under Section 203(b)(2)(E-13) for  
2 intangible expenses and costs paid, accrued, or  
3 incurred, directly or indirectly, to the same foreign  
4 person. This subparagraph (X) is exempt from the  
5 provisions of Section 250; and

6 (Y) For taxable years ending on or after December  
7 31, 2009, in the case of a taxpayer who was required to  
8 add back any insurance premiums under Section  
9 203(b)(2)(E-14), an amount equal to the amount of any  
10 reimbursement received from the insurance company for  
11 any loss covered by a policy for which those premiums  
12 were paid, to the extent of the federal income tax  
13 deduction that would have been allowable for the loss  
14 if not for the reimbursement. This subparagraph (Y) is  
15 exempt from the provisions of Section 250; and

16 (Z) The difference between (i) the excess  
17 inclusion of the taxpayer under Section 860E(c) of the  
18 Internal Revenue Code or (ii) the nondeductible  
19 controlled foreign corporation dividends under Section  
20 965(e)(3) of the Internal Revenue Code, whichever is  
21 less, over the taxable income of the taxpayer, computed  
22 without regard to Section 860E(a)(1) of the Internal  
23 Revenue Code, without regard to Section 965(e)(2)(A)  
24 of the Internal Revenue Code, and without regard to any  
25 net operating loss deduction. This subparagraph (Z) is  
26 exempt from the provisions of Section 250.

1           (3) Special rule. For purposes of paragraph (2) (A),  
2 "gross income" in the case of a life insurance company, for  
3 tax years ending on and after December 31, 1994, and prior  
4 to December 31, 2009, shall mean the gross investment  
5 income for the taxable year and, for tax years ending on or  
6 after December 31, 2009, shall mean all amounts included in  
7 life insurance gross income under Section 803(a)(3) of the  
8 Internal Revenue Code.

9           (c) Trusts and estates.

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

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

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

21           (B) In the case of (i) an estate, \$600; (ii) a  
22 trust which, under its governing instrument, is  
23 required to distribute all of its income currently,  
24 \$300; and (iii) any other trust, \$100, but in each such  
25 case, only to the extent such amount was deducted in

1 the computation of taxable income;

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

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

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

19 (i) the addition modification relating to the  
20 net operating loss carried back or forward to the  
21 taxable year from any taxable year ending prior to  
22 December 31, 1986 shall be reduced by the amount of  
23 addition modification under this subparagraph (E)  
24 which related to that net operating loss and which  
25 was taken into account in calculating the base  
26 income of an earlier taxable year, and

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

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

13                  (F) For taxable years ending on or after January 1,  
14                  1989, an amount equal to the tax deducted pursuant to  
15                  Section 164 of the Internal Revenue Code if the trust  
16                  or estate is claiming the same tax for purposes of the  
17                  Illinois foreign tax credit under Section 601 of this  
18                  Act;

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

23                  (G-5) For taxable years ending after December 31,  
24                  1997, an amount equal to any eligible remediation costs  
25                  that the trust or estate deducted in computing adjusted  
26                  gross income and for which the trust or estate claims a

1 credit under subsection (l) of Section 201;

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

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

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

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

24 (G-12) An amount equal to the amount otherwise  
25 allowed as a deduction in computing base income for  
26 interest paid, accrued, or incurred, directly or

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

17           (G-13) An amount equal to the amount of intangible  
18 expenses and costs otherwise allowed as a deduction in  
19 computing base income, and that were paid, accrued, or  
20 incurred, directly or indirectly, (i) for taxable  
21 years ending on or after December 31, 2004, to a  
22 foreign person who would be a member of the same  
23 unitary business group but for the fact that the  
24 foreign person's business activity outside the United  
25 States is 80% or more of that person's total business  
26 activity and (ii) for taxable years ending on or after



1 December 31, 2008, to a person who would be a member of  
2 the same unitary business group but for the fact that  
3 the person is prohibited under Section 1501(a)(27)  
4 from being included in the unitary business group  
5 because he or she is ordinarily required to apportion  
6 business income under different subsections of Section  
7 304. The addition modification required by this  
8 subparagraph shall be reduced to the extent that  
9 dividends were included in base income of the unitary  
10 group for the same taxable year and received by the  
11 taxpayer or by a member of the taxpayer's unitary  
12 business group (including amounts included in gross  
13 income pursuant to Sections 951 through 964 of the  
14 Internal Revenue Code and amounts included in gross  
15 income under Section 78 of the Internal Revenue Code)  
16 with respect to the stock of the same person to whom  
17 the intangible expenses and costs were directly or  
18 indirectly paid, incurred, or accrued. The preceding  
19 sentence shall not apply to the extent that the same  
20 dividends caused a reduction to the addition  
21 modification required under Section 203(c)(2)(G-12) of  
22 this Act. As used in this subparagraph, the term  
23 "intangible expenses and costs" includes: (1)  
24 expenses, losses, and costs for or related to the  
25 direct or indirect acquisition, use, maintenance or  
26 management, ownership, sale, exchange, or any other

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

10 This paragraph shall not apply to the following:

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

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

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

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

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

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

25 (G-14) For taxable years ending on or after  
26 December 31, 2008, an amount equal to the amount of

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

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

1           (H) An amount equal to all amounts included in such  
2 total pursuant to the provisions of Sections 402(a),  
3 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
4 Internal Revenue Code or included in such total as  
5 distributions under the provisions of any retirement  
6 or disability plan for employees of any governmental  
7 agency or unit, or retirement payments to retired  
8 partners, which payments are excluded in computing net  
9 earnings from self employment by Section 1402 of the  
10 Internal Revenue Code and regulations adopted pursuant  
11 thereto;

12           (I) The valuation limitation amount;

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

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

1           (L) With the exception of any amounts subtracted  
2           under subparagraph (K), an amount equal to the sum of all  
3           amounts disallowed as deductions by (i) Sections 171(a) (2)  
4           and 265(a) (2) of the Internal Revenue Code, ~~as now or~~  
5           ~~hereafter amended~~, and all amounts of expenses allocable to  
6           interest and disallowed as deductions by Section 265(1) of  
7           the Internal Revenue Code of 1954, ~~as now or hereafter~~  
8           ~~amended~~; and (ii) for taxable years ending on or after  
9           August 13, 1999, Sections 171(a) (2), 265, 280C, and  
10          832(b) (5) (B) (i) of the Internal Revenue Code, plus, (iii)  
11          for taxable years ending on or after December 31, 2009,  
12          Section 45G(e) (3) of the Internal Revenue Code; the  
13          provisions of this subparagraph are exempt from the  
14          provisions of Section 250;

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

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

1 Increment Allocation Redevelopment Act;

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

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

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

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

23 (R) 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 (R) is exempt from the provisions of  
6 Section 250;

7 (S) 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 (G-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 (G-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 (S) is exempt from the  
23 provisions of Section 250;

24 (T) 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. This subparagraph (T) is exempt  
14 from the provisions of Section 250;

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

1 unitary business group because he or she is ordinarily  
2 required to apportion business income under different  
3 subsections of Section 304, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(c)(2)(G-12) for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, to the same person. This subparagraph (U)  
8 is exempt from the provisions of Section 250; ~~and~~

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

1 incurred, directly or indirectly, to the same ~~foreign~~  
2 person. This subparagraph (V) is exempt from the  
3 provisions of Section 250;

4 (W) in the case of an estate, an amount equal to  
5 all amounts included in such total pursuant to the  
6 provisions of Section 111 of the Internal Revenue Code  
7 as a recovery of items previously deducted by the  
8 decedent from adjusted gross income in the computation  
9 of taxable income. This subparagraph (W) is exempt from  
10 Section 250;

11 (X) an amount equal to the refund included in such  
12 total of any tax deducted for federal income tax  
13 purposes, to the extent that deduction was added back  
14 under subparagraph (F). This subparagraph (X) is  
15 exempt from the provisions of Section 250;

16 (Y) For taxable years ending on or after December  
17 31, 2009, in the case of a taxpayer who was required to  
18 add back any insurance premiums under Section  
19 203(c)(2)(G-14), an amount equal to the amount of any  
20 reimbursement received from the insurance company for  
21 any loss covered by a policy for which those premiums  
22 were paid, to the extent of the federal income tax  
23 deduction that would have been allowable for the loss  
24 if not for the reimbursement. This subparagraph (Y) is  
25 exempt from the provisions of Section 250; and

26 (Z) The difference between the excess inclusion of

1           the taxpayer under Section 860E(c) of the Internal  
2           Revenue Code over the taxable income of the taxpayer,  
3           computed without regard to Section 860E(a)(1) and  
4           without regard to any net operating loss deduction.  
5           This subparagraph (Z) is exempt from the provisions of  
6           Section 250.

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

14           (d) Partnerships.

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

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

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

25           (B) An amount equal to the amount of tax imposed by

1           this Act to the extent deducted from gross income for  
2           the taxable year;

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

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

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

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

22          If the taxpayer continues to own property through  
23          the last day of the last tax year for which the  
24          taxpayer may claim a depreciation deduction for  
25          federal income tax purposes and for which the taxpayer  
26          was allowed in any taxable year to make a subtraction

1 modification under subparagraph (O), then an amount  
2 equal to that subtraction modification.

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

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



1 included in gross income pursuant to Sections 951  
2 through 964 of the Internal Revenue Code and amounts  
3 included in gross income under Section 78 of the  
4 Internal Revenue Code) with respect to the stock of the  
5 same person to whom the interest was paid, accrued, or  
6 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 person who  
10 is subject in a foreign country or state, other  
11 than a state which requires mandatory unitary  
12 reporting, to a tax on or measured by net income  
13 with respect to such interest; or

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

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

22 (b) the transaction giving rise to the  
23 interest expense between the taxpayer and the  
24 person did not have as a principal purpose the  
25 avoidance of Illinois income tax, and is paid  
26 pursuant to a contract or agreement that

1 reflects an arm's-length interest rate and  
2 terms; or

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

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

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

25 (D-8) An amount equal to the amount of intangible  
26 expenses and costs otherwise allowed as a deduction in

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

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

18 This paragraph shall not apply to the following:

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

26 (ii) any item of intangible expense or cost

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

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

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

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

24                  Nothing in this subsection shall preclude the  
25                  Director from making any other adjustment  
26                  otherwise allowed under Section 404 of this Act for

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

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

1 of the same person to whom the premiums and costs were  
2 directly or indirectly paid, incurred, or accrued. The  
3 preceding sentence does not apply to the extent that  
4 the same dividends caused a reduction to the addition  
5 modification required under Section 203(d) (2) (D-7) or  
6 Section 203(d) (2) (D-8) of this Act.

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

9 (E) The valuation limitation amount;

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

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

23 (H) Any income of the partnership which  
24 constitutes personal service income as defined in  
25 Section 1348 (b) (1) of the Internal Revenue Code (as  
26 in effect December 31, 1981) or a reasonable allowance

1 for compensation paid or accrued for services rendered  
2 by partners to the partnership, whichever is greater;

3 (I) An amount equal to all amounts of income  
4 distributable to an entity subject to the Personal  
5 Property Tax Replacement Income Tax imposed by  
6 subsections (c) and (d) of Section 201 of this Act  
7 including amounts distributable to organizations  
8 exempt from federal income tax by reason of Section  
9 501(a) of the Internal Revenue Code;

10 (J) With the exception of any amounts subtracted  
11 under subparagraph (G), an amount equal to the sum of all  
12 amounts disallowed as deductions by (i) Sections 171(a)  
13 (2), and 265(2) of the Internal Revenue Code ~~of 1954, as~~  
14 ~~now or hereafter amended~~, and all amounts of expenses  
15 allocable to interest and disallowed as deductions by  
16 Section 265(1) of the Internal Revenue Code, ~~as now or~~  
17 ~~hereafter amended~~; and (ii) for taxable years ending on or  
18 after August 13, 1999, Sections 171(a)(2), 265, 280C, and  
19 832(b)(5)(B)(i) of the Internal Revenue Code, plus, (iii)  
20 for taxable years ending on or after December 31, 2009,  
21 Section 45G(e)(3) of the Internal Revenue Code; the  
22 provisions of this subparagraph are exempt from the  
23 provisions of Section 250;

24 (K) An amount equal to those dividends included in  
25 such total which were paid by a corporation which  
26 conducts business operations in an Enterprise Zone or



1 zones created under the Illinois Enterprise Zone Act,  
2 enacted by the 82nd General Assembly, or a River Edge  
3 Redevelopment Zone or zones created under the River  
4 Edge Redevelopment Zone Act and conducts substantially  
5 all of its operations in an Enterprise Zone or Zones or  
6 from a River Edge Redevelopment Zone or zones. This  
7 subparagraph (K) is exempt from the provisions of  
8 Section 250;

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

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

21 (N) 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 (O) For taxable years 2001 and thereafter, for the

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

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

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

17 (3) for taxable years ending after December  
18 31, 2005:

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

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

1                   1.0.

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

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

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 required in any taxable year to make an addition  
20                  modification under subparagraph (D-5), then an amount  
21                  equal to that addition modification.

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

25                  This subparagraph (P) is exempt from the  
26                  provisions of Section 250;

1           (Q) The amount of (i) any interest income (net of  
2           the deductions allocable thereto) taken into account  
3           for the taxable year with respect to a transaction with  
4           a taxpayer that is required to make an addition  
5           modification with respect to such transaction under  
6           Section           203(a)(2)(D-17),           203(b)(2)(E-12),  
7           203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
8           the amount of such addition modification and (ii) any  
9           income from intangible property (net of the deductions  
10          allocable thereto) taken into account for the taxable  
11          year with respect to a transaction with a taxpayer that  
12          is required to make an addition modification with  
13          respect to such transaction under Section  
14          203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
15          203(d)(2)(D-8), but not to exceed the amount of such  
16          addition modification. This subparagraph (Q) is exempt  
17          from Section 250;

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

1           who would be a member of the same unitary business  
2           group but for the fact that the person is prohibited  
3           under Section 1501(a)(27) from being included in the  
4           unitary business group because he or she is ordinarily  
5           required to apportion business income under different  
6           subsections of Section 304, but not to exceed the  
7           addition modification required to be made for the same  
8           taxable year under Section 203(d)(2)(D-7) for interest  
9           paid, accrued, or incurred, directly or indirectly, to  
10          the same person. This subparagraph (R) is exempt from  
11          Section 250; ~~and~~

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

1 addition modification required to be made for the same  
2 taxable year under Section 203(d)(2)(D-8) for  
3 intangible expenses and costs paid, accrued, or  
4 incurred, directly or indirectly, to the same person.  
5 This subparagraph (S) is exempt from Section 250;

6 (T) For taxable years ending on or after December  
7 31, 2009, in the case of a taxpayer who was required to  
8 add back any insurance premiums under Section  
9 203(d)(2)(D-9), an amount equal to the amount of any  
10 reimbursement received from the insurance company for  
11 any loss covered by a policy for which those premiums  
12 were paid, to the extent of the federal income tax  
13 deduction that would have been allowable for the loss  
14 if not for the reimbursement. This subparagraph (T) is  
15 exempt from the provisions of Section 250; and

16 (U) The difference between the excess inclusion of  
17 the taxpayer under Section 860E(c) of the Internal  
18 Revenue Code over the taxable income of the taxpayer,  
19 computed without regard to Section 860E(a)(1) and  
20 without regard to any net operating loss deduction.  
21 This subparagraph (U) is exempt from the provisions of  
22 Section 250.

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

24 (1) In general. Subject to the provisions of paragraph

25 (2) and subsection (b) (3), for purposes of this Section

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

1 applied under Section 172 of the Internal Revenue Code or  
2 under subparagraph (E) of paragraph (2) of this subsection  
3 (e) applied in conjunction with Section 172 of the Internal  
4 Revenue Code.

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

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

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

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

23 (D) Real estate investment trusts. In the case of a  
24 real estate investment trust subject to the tax imposed  
25 by Section 857 of the Internal Revenue Code, real  
26 estate investment trust taxable income;



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

13           (F) Cooperatives. In the case of a cooperative  
14 corporation or association, the taxable income of such  
15 organization determined in accordance with the  
16 provisions of Section 1381 through 1388 of the Internal  
17 Revenue Code, but without regard to the prohibition  
18 against offsetting losses from patronage activities  
19 against income from nonpatronage activities;

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

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

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

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

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

8 (f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

13           (Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06;  
14 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff.  
15 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331,  
16 eff. 8-21-07; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08;  
17 revised 10-15-08.)

18           (35 ILCS 5/204) (from Ch. 120, par. 2-204)

19           Sec. 204. Standard Exemption.

20           (a) Allowance of exemption. In computing net income under  
21 this Act, there shall be allowed as an exemption the sum of the  
22 amounts determined under subsections (b), (c) and (d),  
23 multiplied by a fraction the numerator of which is the amount  
24 of the taxpayer's base income allocable to this State for the

1 taxable year and the denominator of which is the taxpayer's  
2 total base income for the taxable year.

3 (b) Basic amount. For the purpose of subsection (a) of this  
4 Section, except as provided by subsection (a) of Section 205  
5 and in this subsection, each taxpayer shall be allowed a basic  
6 amount of \$1000, except that for corporations the basic amount  
7 shall be zero for tax years ending on or after December 31,  
8 2003, and for individuals the basic amount shall be:

9 (1) for taxable years ending on or after December 31,  
10 1998 and prior to December 31, 1999, \$1,300;

11 (2) for taxable years ending on or after December 31,  
12 1999 and prior to December 31, 2000, \$1,650;

13 (3) for taxable years ending on or after December 31,  
14 2000, \$2,000.

15 For taxable years ending on or after December 31, 1992, a  
16 taxpayer whose Illinois base income exceeds the basic amount  
17 and who is claimed as a dependent on another person's tax  
18 return under the Internal Revenue Code ~~of 1986~~ shall not be  
19 allowed any basic amount under this subsection.

20 (c) Additional amount for individuals. In the case of an  
21 individual taxpayer, there shall be allowed for the purpose of  
22 subsection (a), in addition to the basic amount provided by  
23 subsection (b), an additional exemption equal to the basic  
24 amount for each exemption in excess of one allowable to such  
25 individual taxpayer for the taxable year under Section 151 of  
26 the Internal Revenue Code.

1 (d) Additional exemptions for an individual taxpayer and  
2 his or her spouse. In the case of an individual taxpayer and  
3 his or her spouse, he or she shall each be allowed additional  
4 exemptions as follows:

5 (1) Additional exemption for taxpayer or spouse 65  
6 years of age or older.

7 (A) For taxpayer. An additional exemption of  
8 \$1,000 for the taxpayer if he or she has attained the  
9 age of 65 before the end of the taxable year.

10 (B) For spouse when a joint return is not filed. An  
11 additional exemption of \$1,000 for the spouse of the  
12 taxpayer if a joint return is not made by the taxpayer  
13 and his spouse, and if the spouse has attained the age  
14 of 65 before the end of such taxable year, and, for the  
15 calendar year in which the taxable year of the taxpayer  
16 begins, has no gross income and is not the dependent of  
17 another taxpayer.

18 (2) Additional exemption for blindness of taxpayer or  
19 spouse.

20 (A) For taxpayer. An additional exemption of  
21 \$1,000 for the taxpayer if he or she is blind at the  
22 end of the taxable year.

23 (B) For spouse when a joint return is not filed. An  
24 additional exemption of \$1,000 for the spouse of the  
25 taxpayer if a separate return is made by the taxpayer,  
26 and if the spouse is blind and, for the calendar year

1 in which the taxable year of the taxpayer begins, has  
2 no gross income and is not the dependent of another  
3 taxpayer. For purposes of this paragraph, the  
4 determination of whether the spouse is blind shall be  
5 made as of the end of the taxable year of the taxpayer;  
6 except that if the spouse dies during such taxable year  
7 such determination shall be made as of the time of such  
8 death.

9 (C) Blindness defined. For purposes of this  
10 subsection, an individual is blind only if his or her  
11 central visual acuity does not exceed 20/200 in the  
12 better eye with correcting lenses, or if his or her  
13 visual acuity is greater than 20/200 but is accompanied  
14 by a limitation in the fields of vision such that the  
15 widest diameter of the visual fields subtends an angle  
16 no greater than 20 degrees.

17 (e) Cross reference. See Article 3 for the manner of  
18 determining base income allocable to this State.

19 (f) Application of Section 250. Section 250 does not apply  
20 to the amendments to this Section made by Public Act 90-613.

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

22 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

23 Sec. 205. Exempt organizations.

24 (a) Charitable, etc. organizations. The base income of an  
25 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 A partnership shall file such returns and other information at  
18 such time and in such manner as may be required under Article 5  
19 of this Act. The partners in a partnership shall be liable for  
20 the replacement tax imposed by subsection 201 (c) and (d) of  
21 this Act on such partnership, to the extent such tax is not  
22 paid by the partnership, as provided under the laws of Illinois  
23 governing the liability of partners for the obligations of a  
24 partnership. Persons carrying on business as partners shall be  
25 liable for the tax imposed by subsection 201 (a) and (b) of  
26 this Act only in their separate or individual capacities.

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

7 (d) Combat zone, terrorist attack, and certain other deaths  
8 ~~death~~. An individual relieved from the federal income tax for  
9 any taxable year by reason of section 692 of the Internal  
10 Revenue Code shall not be subject to the tax imposed by this  
11 Act for such taxable year.

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

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

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

23 (2) activities of the person's employees or agents  
24 located solely at the premises of a printer and related to  
25 quality control, distribution, or printing services  
26 performed by a printer in the State with which the person

1 has contracted for printing.

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

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

9 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

10 Sec. 207. Net Losses.

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

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

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

1 following the taxable year of such loss; and

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

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

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

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

25 (b) Any loss determined under subsection (a) of this  
26 Section must be carried back or carried forward in the same

1 manner for purposes of subsections (a) and (b) of Section 201  
2 of this Act as for purposes of subsections (c) and (d) of  
3 Section 201 of this Act.

4 (c) Notwithstanding any other provision of this Act:<sup>7</sup>

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

1 determination of Illinois net income for the taxable year  
2 in which the indebtedness is discharged; ~~and~~.

3 (2) for each taxable year ending on or after December  
4 31, 2009, for purposes of computing the loss for the  
5 taxable year under subsection (a) of this Section, the  
6 taxpayer shall add back to its base income any amount of  
7 income subtracted under Section 203(b)(2), (c)(2) or  
8 (d)(2) of this Act.

9 (Source: P.A. 95-233, eff. 8-16-07.)

10 (35 ILCS 5/214)

11 Sec. 214. Tax credit for affordable housing donations.

12 (a) Beginning with taxable years ending on or after  
13 December 31, 2001 and until the taxable year ending on December  
14 31, 2011, a taxpayer who makes a donation under Section 7.28 of  
15 the Illinois Housing Development Act is entitled to a credit  
16 against the tax imposed by subsections (a) and (b) of Section  
17 201 in an amount equal to 50% of the value of the donation.  
18 Partners, shareholders of subchapter S corporations, and  
19 owners of limited liability companies (if the limited liability  
20 company is treated as a partnership for purposes of federal and  
21 State income taxation) are entitled to a credit under this  
22 Section to be determined in accordance with the determination  
23 of income and distributive share of income under Sections 702  
24 and 703 and subchapter S of the Internal Revenue Code. Persons  
25 or entities not subject to the tax imposed by subsections (a)

1 and (b) of Section 201 and who make a donation under Section  
2 7.28 of the Illinois Housing Development Act are entitled to a  
3 credit as described in this subsection and may transfer that  
4 credit as described in subsection (c).

5 (b) If the amount of the credit exceeds the tax liability  
6 for the year, the excess may be carried forward and applied to  
7 the tax liability of the 5 taxable years following the excess  
8 credit year. The tax credit shall be applied to the earliest  
9 year for which there is a tax liability. If there are credits  
10 for more than one year that are available to offset a  
11 liability, the earlier credit shall be applied first.

12 (c) The transfer of the tax credit allowed under this  
13 Section may be made (i) to the purchaser of land that has been  
14 designated solely for affordable housing projects in  
15 accordance with the Illinois Housing Development Act or (ii) to  
16 another donor who has also made a donation in accordance with  
17 Section 7.28 of the Illinois Housing Development Act.

18 (d) A taxpayer claiming the credit provided by this Section  
19 must maintain and record any information that the Department  
20 may require by regulation regarding the project for which the  
21 credit is claimed. When claiming the credit provided by this  
22 Section, the taxpayer must provide information regarding the  
23 taxpayer's donation to the project under the Illinois Housing  
24 Development Act.

25 (Source: P.A. 93-369, eff. 7-24-03; 94-46, eff. 6-17-05.)

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

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

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

23 (1) Property factor.

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



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

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

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

17 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) Sales factor.

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

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

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

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

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

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

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

22 (ii) Place of utilization.

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



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

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

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

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

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

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

19 (B-5) For taxable years ending on or after December 31,  
20 2008, except as provided in subsections (ii) through (vii),  
21 receipts from the sale of telecommunications service or  
22 mobile telecommunications service are in this State if the  
23 customer's service address is in this State.

24 (i) For purposes of this subparagraph (B-5), the  
25 following ~~follow~~ terms have the following meanings:

26 "Ancillary services" means services that are

1 associated with or incidental to the provision of  
2 "telecommunications services", including but not  
3 limited to "detailed telecommunications billing",  
4 "directory assistance", "vertical service", and "voice  
5 mail services".

6 "Air-to-Ground Radiotelephone service" means a  
7 radio service, as that term is defined in 47 CFR 22.99,  
8 in which common carriers are authorized to offer and  
9 provide radio telecommunications service for hire to  
10 subscribers in aircraft.

11 "Call-by-call Basis" means any method of charging  
12 for telecommunications services where the price is  
13 measured by individual calls.

14 "Communications Channel" means a physical or  
15 virtual path of communications over which signals are  
16 transmitted between or among customer channel  
17 termination points.

18 "Conference bridging service" means an "ancillary  
19 service" that links two or more participants of an  
20 audio or video conference call and may include the  
21 provision of a telephone number. "Conference bridging  
22 service" does not include the "telecommunications  
23 services" used to reach the conference bridge.

24 "Customer Channel Termination Point" means the  
25 location where the customer either inputs or receives  
26 the communications.

1 "Detailed telecommunications billing service"  
2 means an "ancillary service" of separately stating  
3 information pertaining to individual calls on a  
4 customer's billing statement.

5 "Directory assistance" means an "ancillary  
6 service" of providing telephone number information,  
7 and/or address information.

8 "Home service provider" means the facilities based  
9 carrier or reseller with which the customer contracts  
10 for the provision of mobile telecommunications  
11 services.

12 "Mobile telecommunications service" means  
13 commercial mobile radio service, as defined in Section  
14 20.3 of Title 47 of the Code of Federal Regulations as  
15 in effect on June 1, 1999.

16 "Place of primary use" means the street address  
17 representative of where the customer's use of the  
18 telecommunications service primarily occurs, which  
19 must be the residential street address or the primary  
20 business street address of the customer. In the case of  
21 mobile telecommunications services, "place of primary  
22 use" must be within the licensed service area of the  
23 home service provider.

24 "Post-paid telecommunication service" means the  
25 telecommunications service obtained by making a  
26 payment on a call-by-call basis either through the use

1 of a credit card or payment mechanism such as a bank  
2 card, travel card, credit card, or debit card, or by  
3 charge made to a telephone number which is not  
4 associated with the origination or termination of the  
5 telecommunications service. A post-paid calling  
6 service includes telecommunications service, except a  
7 prepaid wireless calling service, that would be a  
8 prepaid calling service except it is not exclusively a  
9 telecommunication service.

10 "Prepaid telecommunication service" means the  
11 right to access exclusively telecommunications  
12 services, which must be paid for in advance and which  
13 enables the origination of calls using an access number  
14 or authorization code, whether manually or  
15 electronically dialed, and that is sold in  
16 predetermined units or dollars of which the number  
17 declines with use in a known amount.

18 "Prepaid Mobile telecommunication service" means a  
19 telecommunications service that provides the right to  
20 utilize mobile wireless service as well as other  
21 non-telecommunication services, including but not  
22 limited to ancillary services, which must be paid for  
23 in advance that is sold in predetermined units or  
24 dollars of which the number declines with use in a  
25 known amount.

26 "Private communication service" means a

1 telecommunication service that entitles the customer  
2 to exclusive or priority use of a communications  
3 channel or group of channels between or among  
4 termination points, regardless of the manner in which  
5 such channel or channels are connected, and includes  
6 switching capacity, extension lines, stations, and any  
7 other associated services that are provided in  
8 connection with the use of such channel or channels.

9 "Service address" means:

10 (a) The location of the telecommunications  
11 equipment to which a customer's call is charged and  
12 from which the call originates or terminates,  
13 regardless of where the call is billed or paid;

14 (b) If the location in line (a) is not known,  
15 service address means the origination point of the  
16 signal of the telecommunications services first  
17 identified by either the seller's  
18 telecommunications system or in information  
19 received by the seller from its service provider  
20 where the system used to transport such signals is  
21 not that of the seller; and

22 (c) If the locations in line (a) and line (b)  
23 are not known, the service address means the  
24 location of the customer's place of primary use.

25 "Telecommunications service" means the electronic  
26 transmission, conveyance, or routing of voice, data,

1 audio, video, or any other information or signals to a  
2 point, or between or among points. The term  
3 "telecommunications service" includes such  
4 transmission, conveyance, or routing in which computer  
5 processing applications are used to act on the form,  
6 code or protocol of the content for purposes of  
7 transmission, conveyance or routing without regard to  
8 whether such service is referred to as voice over  
9 Internet protocol services or is classified by the  
10 Federal Communications Commission as enhanced or value  
11 added. "Telecommunications service" does not include:

12 (a) Data processing and information services  
13 that allow data to be generated, acquired, stored,  
14 processed, or retrieved and delivered by an  
15 electronic transmission to a purchaser when such  
16 purchaser's primary purpose for the underlying  
17 transaction is the processed data or information;

18 (b) Installation or maintenance of wiring or  
19 equipment on a customer's premises;

20 (c) Tangible personal property;

21 (d) Advertising, including but not limited to  
22 directory advertising.

23 (e) Billing and collection services provided  
24 to third parties;

25 (f) Internet access service;

26 (g) Radio and television audio and video

1 programming services, regardless of the medium,  
2 including the furnishing of transmission,  
3 conveyance and routing of such services by the  
4 programming service provider. Radio and television  
5 audio and video programming services shall include  
6 but not be limited to cable service as defined in  
7 47 USC 522(6) and audio and video programming  
8 services delivered by commercial mobile radio  
9 service providers, as defined in 47 CFR 20.3;

10 (h) "Ancillary services"; or

11 (i) Digital products "delivered  
12 electronically", including but not limited to  
13 software, music, video, reading materials or ring  
14 tones.

15 "Vertical service" means an "ancillary service"  
16 that is offered in connection with one or more  
17 "telecommunications services", which offers advanced  
18 calling features that allow customers to identify  
19 callers and to manage multiple calls and call  
20 connections, including "conference bridging services".

21 "Voice mail service" means an "ancillary service"  
22 that enables the customer to store, send or receive  
23 recorded messages. "Voice mail service" does not  
24 include any "vertical services" that the customer may  
25 be required to have in order to utilize the "voice mail  
26 service".



1 (ii) Receipts from the sale of telecommunications  
2 service sold on an individual call-by-call basis are in  
3 this State if either of the following applies:

4 (a) The call both originates and terminates in  
5 this State.

6 (b) The call either originates or terminates  
7 in this State and the service address is located in  
8 this State.

9 (iii) Receipts from the sale of postpaid  
10 telecommunications service at retail are in this State  
11 if the origination point of the telecommunication  
12 signal, as first identified by the service provider's  
13 telecommunication system or as identified by  
14 information received by the seller from its service  
15 provider if the system used to transport  
16 telecommunication signals is not the seller's, is  
17 located in this State.

18 (iv) Receipts from the sale of prepaid  
19 telecommunications service or prepaid mobile  
20 telecommunications service at retail are in this State  
21 if the purchaser obtains the prepaid card or similar  
22 means of conveyance at a location in this State.  
23 Receipts from recharging a prepaid telecommunications  
24 service or mobile telecommunications service is in  
25 this State if the purchaser's billing information  
26 indicates a location in this State.

1 (v) Receipts from the sale of private  
2 communication services are in this State as follows:

3 (a) 100% of receipts from charges imposed at  
4 each channel termination point in this State.

5 (b) 100% of receipts from charges for the total  
6 channel mileage between each channel termination  
7 point in this State.

8 (c) 50% of the total receipts from charges for  
9 service segments when those segments are between 2  
10 customer channel termination points, 1 of which is  
11 located in this State and the other is located  
12 outside of this State, which segments are  
13 separately charged.

14 (d) The receipts from charges for service  
15 segments with a channel termination point located  
16 in this State and in two or more other states, and  
17 which segments are not separately billed, are in  
18 this State based on a percentage determined by  
19 dividing the number of customer channel  
20 termination points in this State by the total  
21 number of customer channel termination points.

22 (vi) Receipts from charges for ancillary services  
23 for telecommunications service sold to customers at  
24 retail are in this State if the customer's primary  
25 place of use of telecommunications services associated  
26 with those ancillary services is in this State. If the

1 seller of those ancillary services cannot determine  
2 where the associated telecommunications are located,  
3 then the ancillary services shall be based on the  
4 location of the purchaser.

5 (vii) Receipts to access a carrier's network or  
6 from the sale of telecommunication services or  
7 ancillary services for resale are in this State as  
8 follows:

9 (a) 100% of the receipts from access fees  
10 attributable to intrastate telecommunications  
11 service that both originates and terminates in  
12 this State.

13 (b) 50% of the receipts from access fees  
14 attributable to interstate telecommunications  
15 service if the interstate call either originates  
16 or terminates in this State.

17 (c) 100% of the receipts from interstate end  
18 user access line charges, if the customer's  
19 service address is in this State. As used in this  
20 subdivision, "interstate end user access line  
21 charges" includes, but is not limited to, the  
22 surcharge approved by the federal communications  
23 commission and levied pursuant to 47 CFR 69.

24 (d) Gross receipts from sales of  
25 telecommunication services or from ancillary  
26 services for telecommunications services sold to

1 other telecommunication service providers for  
2 resale shall be sourced to this State using the  
3 apportionment concepts used for non-resale  
4 receipts of telecommunications services if the  
5 information is readily available to make that  
6 determination. If the information is not readily  
7 available, then the taxpayer may use any other  
8 reasonable and consistent method.

9 (C) For taxable years ending before December 31, 2008,  
10 sales, other than sales governed by paragraphs (B), (B-1),  
11 and (B-2), are in this State if:

12 (i) The income-producing activity is performed in  
13 this State; or

14 (ii) The income-producing activity is performed  
15 both within and without this State and a greater  
16 proportion of the income-producing activity is  
17 performed within this State than without this State,  
18 based on performance costs.

19 (C-5) For taxable years ending on or after December 31,  
20 2008, sales, other than sales governed by paragraphs (B),  
21 (B-1), (B-2), and (B-5), are in this State if any of the  
22 following criteria are met:

23 (i) Sales from the sale or lease of real property  
24 are in this State if the property is located in this  
25 State.

26 (ii) Sales from the lease or rental of tangible

1 personal property are in this State if the property is  
2 located in this State during the rental period. Sales  
3 from the lease or rental of tangible personal property  
4 that is characteristically moving property, including,  
5 but not limited to, motor vehicles, rolling stock,  
6 aircraft, vessels, or mobile equipment are in this  
7 State to the extent that the property is used in this  
8 State.

9 (iii) In the case of interest, net gains (but not  
10 less than zero) and other items of income from  
11 intangible personal property, the sale is in this State  
12 if:

13 (a) in the case of a taxpayer who is a dealer  
14 in the item of intangible personal property within  
15 the meaning of Section 475 of the Internal Revenue  
16 Code, the income or gain is received from a  
17 customer in this State. For purposes of this  
18 subparagraph, a customer is in this State if the  
19 customer is an individual, trust or estate who is a  
20 resident of this State and, for all other  
21 customers, if the customer's commercial domicile  
22 is in this State. Unless the dealer has actual  
23 knowledge of the residence or commercial domicile  
24 of a customer during a taxable year, the customer  
25 shall be deemed to be a customer in this State if  
26 the billing address of the customer, as shown in

1 the records of the dealer, is in this State; or

2 (b) in all other cases, if the  
3 income-producing activity of the taxpayer is  
4 performed in this State or, if the  
5 income-producing activity of the taxpayer is  
6 performed both within and without this State, if a  
7 greater proportion of the income-producing  
8 activity of the taxpayer is performed within this  
9 State than in any other state, based on performance  
10 costs.

11 (iv) Sales of services are in this State if the  
12 services are received in this State. For the purposes  
13 of this section, gross receipts from the performance of  
14 services provided to a corporation, partnership, or  
15 trust may only be attributed to a state where that  
16 corporation, partnership, or trust has a fixed place of  
17 business. If the state where the services are received  
18 is not readily determinable or is a state where the  
19 corporation, partnership, or trust receiving the  
20 service does not have a fixed place of business, the  
21 services shall be deemed to be received at the location  
22 of the office of the customer from which the services  
23 were ordered in the regular course of the customer's  
24 trade or business. If the ordering office cannot be  
25 determined, the services shall be deemed to be received  
26 at the office of the customer to which the services are

1 billed. If the taxpayer is not taxable in the state in  
2 which the services are received, the sale must be  
3 excluded from both the numerator and the denominator of  
4 the sales factor. The Department shall adopt rules  
5 prescribing where specific types of service are  
6 received, including, but not limited to, broadcast,  
7 cable, advertising, publishing, and utility service.

8 (D) For taxable years ending on or after December 31,  
9 1995, the following items of income shall not be included  
10 in the numerator or denominator of the sales factor:  
11 dividends; amounts included under Section 78 of the  
12 Internal Revenue Code; and Subpart F income as defined in  
13 Section 952 of the Internal Revenue Code. No inference  
14 shall be drawn from the enactment of this paragraph (D) in  
15 construing this Section for taxable years ending before  
16 December 31, 1995.

17 (E) Paragraphs (B-1) and (B-2) shall apply to tax years  
18 ending on or after December 31, 1999, provided that a  
19 taxpayer may elect to apply the provisions of these  
20 paragraphs to prior tax years. Such election shall be made  
21 in the form and manner prescribed by the Department, shall  
22 be irrevocable, and shall apply to all tax years; provided  
23 that, if a taxpayer's Illinois income tax liability for any  
24 tax year, as assessed under Section 903 prior to January 1,  
25 1999, was computed in a manner contrary to the provisions  
26 of paragraphs (B-1) or (B-2), no refund shall be payable to

1 the taxpayer for that tax year to the extent such refund is  
2 the result of applying the provisions of paragraph (B-1) or  
3 (B-2) retroactively. In the case of a unitary business  
4 group, such election shall apply to all members of such  
5 group for every tax year such group is in existence, but  
6 shall not apply to any taxpayer for any period during which  
7 that taxpayer is not a member of such group.

8 (b) Insurance companies.

9 (1) In general. Except as otherwise provided by  
10 paragraph (2), business income of an insurance company for  
11 a taxable year shall be apportioned to this State by  
12 multiplying such income by a fraction, the numerator of  
13 which is the direct premiums written for insurance upon  
14 property or risk in this State, and the denominator of  
15 which is the direct premiums written for insurance upon  
16 property or risk everywhere. For purposes of this  
17 subsection, the term "direct premiums written" means the  
18 total amount of direct premiums written, assessments and  
19 annuity considerations as reported for the taxable year on  
20 the annual statement filed by the company with the Illinois  
21 Director of Insurance in the form approved by the National  
22 Convention of Insurance Commissioners or such other form as  
23 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. The election made by a company under this  
24 paragraph for its first taxable year ending on or after  
25 December 31, 2008, shall be binding for that company for  
26 that taxable year and for all subsequent taxable years, and

1       may be altered only with the written permission of the  
2       Department, which shall not be unreasonably withheld.

3       (c) Financial organizations.

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

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

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

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

22           (D) Interest charged to customers at places of  
23      business maintained within this State for carrying  
24      debit balances of margin accounts, without deduction  
25      of any costs incurred in carrying such accounts; and

26           (E) Any other gross income resulting from the

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

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

14 (A) Adjusted Income. The adjusted income of an  
15 international banking facility is its income reduced  
16 by the amount of the floor amount.

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

21 (i) The numerator shall be:

22 The average aggregate, determined on a  
23 quarterly basis, of the financial organization's  
24 loans to banks in foreign countries, to foreign  
25 domiciled borrowers (except where secured  
26 primarily by real estate) and to foreign

1 governments and other foreign official  
2 institutions, as reported for its branches,  
3 agencies and offices within the state on its  
4 "Consolidated Report of Condition", Schedule A,  
5 Lines 2.c., 5.b., and 7.a., which was filed with  
6 the Federal Deposit Insurance Corporation and  
7 other regulatory authorities, for the year 1980,  
8 minus

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

20 (ii) the denominator shall be the average  
21 aggregate, determined on a quarterly basis, of the  
22 international banking facility's loans to banks in  
23 foreign countries, to foreign domiciled borrowers  
24 (except where secured primarily by real estate)  
25 and to foreign governments and other foreign  
26 official institutions, which were recorded in its

1 financial accounts for the current taxable year.

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

19 (3) For taxable years ending on or after December 31,  
20 2008, the business income of a financial organization shall  
21 be apportioned to this State by multiplying such income by  
22 a fraction, the numerator of which is its gross receipts  
23 from sources in this State or otherwise attributable to  
24 this State's marketplace and the denominator of which is  
25 its gross receipts everywhere during the taxable year.  
26 "Gross receipts" for purposes of this subparagraph (3)

1 means gross income, including net taxable gain on  
2 disposition of assets, including securities and money  
3 market instruments, when derived from transactions and  
4 activities in the regular course of the financial  
5 organization's trade or business. The following examples  
6 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 services are received in this State within the meaning  
22 of subparagraph (a) (3) (C-5) (iv) of this Section.

23 (vii) Receipts from the issuance of travelers  
24 checks and money orders are from sources in this State  
25 if the checks and money orders are issued from a  
26 location within this State.

1 (viii) Receipts from investment assets and  
2 activities and trading assets and activities are  
3 included in the receipts factor as follows:

4 (1) Interest, dividends, net gains (but not  
5 less than zero) and other income from investment  
6 assets and activities from trading assets and  
7 activities shall be included in the receipts  
8 factor. Investment assets and activities and  
9 trading assets and activities include but are not  
10 limited to: investment securities; trading account  
11 assets; federal funds; securities purchased and  
12 sold under agreements to resell or repurchase;  
13 options; futures contracts; forward contracts;  
14 notional principal contracts such as swaps;  
15 equities; and foreign currency transactions. With  
16 respect to the investment and trading assets and  
17 activities described in subparagraphs (A) and (B)  
18 of this paragraph, the receipts factor shall  
19 include the amounts described in such  
20 subparagraphs.

21 (A) The receipts factor shall include the  
22 amount by which interest from federal funds  
23 sold and securities purchased under resale  
24 agreements exceeds interest expense on federal  
25 funds purchased and securities sold under  
26 repurchase agreements.



1           (B) The receipts factor shall include the  
2           amount by which interest, dividends, gains and  
3           other income from trading assets and  
4           activities, including but not limited to  
5           assets and activities in the matched book, in  
6           the arbitrage book, and foreign currency  
7           transactions, exceed amounts paid in lieu of  
8           interest, amounts paid in lieu of dividends,  
9           and losses from such assets and activities.

10          (2) The numerator of the receipts factor  
11          includes interest, dividends, net gains (but not  
12          less than zero), and other income from investment  
13          assets and activities and from trading assets and  
14          activities described in paragraph (1) of this  
15          subsection that are attributable to this State.

16          (A) The amount of interest, dividends, net  
17          gains (but not less than zero), and other  
18          income from investment assets and activities  
19          in the investment account to be attributed to  
20          this State and included in the numerator is  
21          determined by multiplying all such income from  
22          such assets and activities by a fraction, the  
23          numerator of which is the gross income from  
24          such assets and activities which are properly  
25          assigned to a fixed place of business of the  
26          taxpayer within this State and the denominator

1 of which is the gross income from all such  
2 assets and activities.

3 (B) The amount of interest from federal  
4 funds sold and purchased and from securities  
5 purchased under resale agreements and  
6 securities sold under repurchase agreements  
7 attributable to this State and included in the  
8 numerator is determined by multiplying the  
9 amount described in subparagraph (A) of  
10 paragraph (1) of this subsection from such  
11 funds and such securities by a fraction, the  
12 numerator of which is the gross income from  
13 such funds and such securities which are  
14 properly assigned to a fixed place of business  
15 of the taxpayer within this State and the  
16 denominator of which is the gross income from  
17 all such funds and such securities.

18 (C) The amount of interest, dividends,  
19 gains, and other income from trading assets and  
20 activities, including but not limited to  
21 assets and activities in the matched book, in  
22 the arbitrage book and foreign currency  
23 transactions (but excluding amounts described  
24 in subparagraphs (A) or (B) of this paragraph),  
25 attributable to this State and included in the  
26 numerator is determined by multiplying the

1 amount described in subparagraph (B) of  
2 paragraph (1) of this subsection by a fraction,  
3 the numerator of which is the gross income from  
4 such trading assets and activities which are  
5 properly assigned to a fixed place of business  
6 of the taxpayer within this State and the  
7 denominator of which is the gross income from  
8 all such assets and activities.

9 (D) Properly assigned, for purposes of  
10 this paragraph (2) of this subsection, means  
11 the investment or trading asset or activity is  
12 assigned to the fixed place of business with  
13 which it has a preponderance of substantive  
14 contacts. An investment or trading asset or  
15 activity assigned by the taxpayer to a fixed  
16 place of business without the State shall be  
17 presumed to have been properly assigned if:

18 (i) the taxpayer has assigned, in the  
19 regular course of its business, such asset  
20 or activity on its records to a fixed place  
21 of business consistent with federal or  
22 state regulatory requirements;

23 (ii) such assignment on its records is  
24 based upon substantive contacts of the  
25 asset or activity to such fixed place of  
26 business; and

1 (iii) the taxpayer uses such records  
2 reflecting assignment of such assets or  
3 activities for the filing of all state and  
4 local tax returns for which an assignment  
5 of such assets or activities to a fixed  
6 place of business is required.

7 (E) The presumption of proper assignment  
8 of an investment or trading asset or activity  
9 provided in subparagraph (D) of paragraph (2)  
10 of this subsection may be rebutted upon a  
11 showing by the Department, supported by a  
12 preponderance of the evidence, that the  
13 preponderance of substantive contacts  
14 regarding such asset or activity did not occur  
15 at the fixed place of business to which it was  
16 assigned on the taxpayer's records. If the  
17 fixed place of business that has a  
18 preponderance of substantive contacts cannot  
19 be determined for an investment or trading  
20 asset or activity to which the presumption in  
21 subparagraph (D) of paragraph (2) of this  
22 subsection does not apply or with respect to  
23 which that presumption has been rebutted, that  
24 asset or activity is properly assigned to the  
25 state in which the taxpayer's commercial  
26 domicile is located. For purposes of this

1           subparagraph (E), it shall be presumed,  
2           subject to rebuttal, that taxpayer's  
3           commercial domicile is in the state of the  
4           United States or the District of Columbia to  
5           which the greatest number of employees are  
6           regularly connected with the management of the  
7           investment or trading income or out of which  
8           they are working, irrespective of where the  
9           services of such employees are performed, as of  
10          the last day of the taxable year.

11          (4) (Blank).

12          (5) (Blank).

13          (d) Transportation services. For taxable years ending  
14          before December 31, 2008, business income derived from  
15          furnishing transportation services shall be apportioned to  
16          this State in accordance with paragraphs (1) and (2):

17               (1) Such business income (other than that derived from  
18               transportation by pipeline) shall be apportioned to this  
19               State by multiplying such income by a fraction, the  
20               numerator of which is the revenue miles of the person in  
21               this State, and the denominator of which is the revenue  
22               miles of the person everywhere. For purposes of this  
23               paragraph, a revenue mile is the transportation of 1  
24               passenger or 1 net ton of freight the distance of 1 mile  
25               for a consideration. Where a person is engaged in the  
26               transportation of both passengers and freight, the

1 fraction above referred to shall be determined by means of  
2 an average of the passenger revenue mile fraction and the  
3 freight revenue mile fraction, weighted to reflect the  
4 person's

5 (A) relative railway operating income from total  
6 passenger and total freight service, as reported to the  
7 Interstate Commerce Commission, in the case of  
8 transportation by railroad, and

9 (B) relative gross receipts from passenger and  
10 freight transportation, in case of transportation  
11 other than by railroad.

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

22 (3) For taxable years ending on or after December 31,  
23 2008, business income derived from providing  
24 transportation services other than airline services shall  
25 be apportioned to this State by using a fraction, (a) the  
26 numerator of which shall be (i) all receipts from any

1 movement or shipment of people, goods, mail, oil, gas, or  
2 any other substance (other than by airline) that both  
3 originates and terminates in this State, plus (ii) that  
4 portion of the person's gross receipts from movements or  
5 shipments of people, goods, mail, oil, gas, or any other  
6 substance (other than by airline) that originates in one  
7 state or jurisdiction and terminates in another state or  
8 jurisdiction, that is determined by the ratio that the  
9 miles traveled in this State bears to total miles  
10 everywhere and (b) the denominator of which shall be all  
11 revenue derived from the movement or shipment of people,  
12 goods, mail, oil, gas, or any other substance (other than  
13 by airline). Where a taxpayer is engaged in the  
14 transportation of both passengers and freight, the  
15 fraction above referred to shall first be determined  
16 separately for passenger miles and freight miles. Then an  
17 average of the passenger miles fraction and the freight  
18 miles fraction shall be weighted to reflect the taxpayer's:

19 (A) relative railway operating income from total  
20 passenger and total freight service, as reported to the  
21 Surface Transportation Board, in the case of  
22 transportation by railroad; and

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

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

1           2008, business income derived from furnishing airline  
2           transportation services shall be apportioned to this State  
3           by multiplying such income by a fraction, the numerator of  
4           which is the revenue miles of the person in this State, and  
5           the denominator of which is the revenue miles of the person  
6           everywhere. For purposes of this paragraph, a revenue mile  
7           is the transportation of one passenger or one net ton of  
8           freight the distance of one mile for a consideration. If a  
9           person is engaged in the transportation of both passengers  
10          and freight, the fraction above referred to shall be  
11          determined by means of an average of the passenger revenue  
12          mile fraction and the freight revenue mile fraction,  
13          weighted to reflect the person's relative gross receipts  
14          from passenger and freight airline transportation.

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

21          (f) Alternative allocation. If the allocation and  
22          apportionment provisions of subsections (a) through (e) and of  
23          subsection (h) do not, for taxable years ending before December  
24          31, 2008, fairly represent the extent of a person's business  
25          activity in this State or, for taxable years ending on or after  
26          December 31, 2008, fairly represent the market for the person's



1 goods, services or other sources of business income, the person  
2 may petition for, or the Director may, without a petition,  
3 permit or require, in respect of all or any part of the  
4 person's business activity, if reasonable:

5 (1) Separate accounting;

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

7 (3) The inclusion of one or more additional factors  
8 which will fairly represent the person's business  
9 activities or market in this State; or

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

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

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

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

22 (2) for tax years ending on or after December 31, 1999  
23 and before December 31, 2000, 8 1/3% of the property factor  
24 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales  
25 factor;

26 (3) for tax years ending on or after December 31, 2000,

1 the sales factor.

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

9 (Source: P.A. 94-247, eff. 1-1-06; 95-233, eff. 8-16-07;  
10 95-707, eff. 1-11-08.)

11 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

12 Sec. 502. Returns and notices.

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

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

17 (2) in the case of a resident or in the case of a  
18 corporation which is qualified to do business in this  
19 State, for which such person is required to make a federal  
20 income tax return, regardless of whether such person is  
21 liable for a tax imposed by this Act. However, this  
22 paragraph shall not require a resident to make a return if  
23 such person has an Illinois base income of the basic amount  
24 in Section 204(b) or less and is either claimed as a  
25 dependent on another person's tax return under the Internal

1 Revenue Code ~~of 1986~~, or is claimed as a dependent on  
2 another person's tax return under this Act.

3 Notwithstanding the provisions of paragraph (1), a  
4 nonresident (other than, for taxable years ending on or after  
5 December 31, 2009, a nonresident required to withhold tax under  
6 Section 709.5) whose Illinois income tax liability under  
7 subsections (a), (b), (c), and (d) of Section 201 of this Act  
8 is paid in full after taking into account the credits allowed  
9 under subsection (f) of this Section or allowed under Section  
10 709.5 of this Act shall not be required to file a return under  
11 this subsection (a).

12 (b) Fiduciaries and receivers.

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

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

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

26 (4) Receivers, trustees and assignees for

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

10 (c) Joint returns by husband and wife.

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

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

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

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

6 (4) Innocent spouses.

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

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

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

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

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

26 (iii) In determining the separate return

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

24           (Source: P.A. 94-1074, eff. 12-26-06; 95-233, eff. 8-16-07.)

1           Sec. 506. Federal Returns.

2           (a) In general. Any person required to make a return for a  
3 taxable year under this Act may, at any time that a deficiency  
4 could be assessed or a refund claimed under this Act in respect  
5 of any item reported or properly reportable on such return or  
6 any amendment thereof, be required to furnish to the Department  
7 a true and correct copy of any return which may pertain to such  
8 item and which was filed by such person under the provisions of  
9 the Internal Revenue Code.

10          (b) Changes affecting federal income tax. A person shall  
11 notify the Department if:

12           (1) the taxable income, any item of income or  
13 deduction, the income tax liability, or any tax credit  
14 reported in an original or amended ~~a~~ federal income tax  
15 return of that person for any year or as determined by the  
16 Internal Revenue Service or the courts is altered by  
17 amendment of such return or as a result of any other  
18 recomputation or redetermination of federal taxable income  
19 or loss, and such alteration reflects a change or  
20 settlement with respect to any item or items, affecting the  
21 computation of such person's net income, net loss, or of  
22 any credit provided by Article 2 of this Act for any year  
23 under this Act, or in the number of personal exemptions  
24 allowable to such person under Section 151 of the Internal  
25 Revenue Code, or

26           (2) the amount of tax required to be withheld by that

1 person from compensation paid to employees and required to  
2 be reported by that person on a federal return is altered  
3 by amendment of the return or by any other recomputation or  
4 redetermination that is agreed to or finally determined on  
5 or after January 1, 2003, and the alteration affects the  
6 amount of compensation subject to withholding by that  
7 person under Section 701 of this Act.

8 Such notification shall be in the form of an amended return or  
9 such other form as the Department may by regulations prescribe,  
10 shall contain the person's name and address and such other  
11 information as the Department may by regulations prescribe,  
12 shall be signed by such person or his duly authorized  
13 representative, and shall be filed not later than 120 days  
14 after such alteration has been agreed to or finally determined  
15 for federal income tax purposes or any federal income tax  
16 deficiency or refund, tentative carryback adjustment,  
17 abatement or credit resulting therefrom has been assessed or  
18 paid, whichever shall first occur.

19 (Source: P.A. 92-846, eff. 8-23-02.)

20 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

21 Sec. 601. Payment on Due Date of Return.

22 (a) In general. Every taxpayer required to file a return  
23 under this Act shall, without assessment, notice or demand, pay  
24 any tax due thereon to the Department, at the place fixed for  
25 filing, on or before the date fixed for filing such return

1 (determined without regard to any extension of time for filing  
2 the return) pursuant to regulations prescribed by the  
3 Department. If, however, the due date for payment of a  
4 taxpayer's federal income tax liability for a tax year (as  
5 provided in the Internal Revenue Code or by Treasury  
6 regulation, or as extended by the Internal Revenue Service) is  
7 later than the date fixed for filing the taxpayer's Illinois  
8 income tax return for that tax year, the Department may, by  
9 rule, prescribe a due date for payment that is not later than  
10 the due date for payment of the taxpayer's federal income tax  
11 liability. For purposes of the Illinois Administrative  
12 Procedure Act, the adoption of rules to prescribe a later due  
13 date for payment shall be deemed an emergency and necessary for  
14 the public interest, safety, and welfare.

15 (b) Amount payable. In making payment as provided in this  
16 section there shall remain payable only the balance of such tax  
17 remaining due after giving effect to the following:

18 (1) Withheld tax. Any amount withheld during any  
19 calendar year pursuant to Article 7 from compensation paid  
20 to a taxpayer shall be deemed to have been paid on account  
21 of any tax imposed by subsections 201(a) and (b) of this  
22 Act on such taxpayer for his taxable year beginning in such  
23 calendar year. If more than one taxable year begins in a  
24 calendar year, such amount shall be deemed to have been  
25 paid on account of such tax for the last taxable year so  
26 beginning.

1           (2) Estimated and tentative tax payments. Any amount of  
2           estimated tax paid by a taxpayer pursuant to Article 8 for  
3           a taxable year shall be deemed to have been paid on account  
4           of the tax imposed by this Act for such taxable year.

5           (3) Foreign tax. The aggregate amount of tax which is  
6           imposed upon or measured by income and which is paid by a  
7           resident for a taxable year to another state or states on  
8           income which is also subject to the tax imposed by  
9           subsections 201(a) and (b) of this Act shall be credited  
10          against the tax imposed by subsections 201(a) and (b)  
11          otherwise due under this Act for such taxable year. The  
12          aggregate credit provided under this paragraph shall not  
13          exceed that amount which bears the same ratio to the tax  
14          imposed by subsections 201(a) and (b) otherwise due under  
15          this Act as the amount of the taxpayer's base income  
16          subject to tax both by such other state or states and by  
17          this State bears to his total base income subject to tax by  
18          this State for the taxable year. The credit provided by  
19          this paragraph shall not be allowed if any creditable tax  
20          was deducted in determining base income for the taxable  
21          year. Any person claiming such credit shall attach a  
22          statement in support thereof and shall notify the Director  
23          of any refund or reductions in the amount of tax claimed as  
24          a credit hereunder all in such manner and at such time as  
25          the Department shall by regulations prescribe.

26          (4) Accumulation and capital gain distributions. If



1 the net income of a taxpayer includes amounts included in  
2 his base income by reason of Section 667 ~~668 or 669~~ of the  
3 Internal Revenue Code (relating to accumulation and  
4 capital gain distributions by a trust, respectively), the  
5 tax imposed on such taxpayer by this Act shall be credited  
6 with his pro rata portion of the taxes imposed by this Act  
7 on such trust for preceding taxable years which would not  
8 have been payable for such preceding years if the trust had  
9 in fact made distributions to its beneficiaries at the  
10 times and in the amounts specified in Section 667 ~~Sections~~  
11 ~~666 and 669~~ of the Internal Revenue Code. The credit  
12 provided by this paragraph shall not reduce the tax  
13 otherwise due from the taxpayer to an amount less than that  
14 which would be due if the amounts included by reason of  
15 Section 667 ~~Sections 668 and 669~~ of the Internal Revenue  
16 Code were excluded from his or her base income.

17 (c) Cross reference. For application against tax due of  
18 overpayments of tax for a prior year, see Section 909.

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

20 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

21 Sec. 701. Requirement and Amount of Withholding.

22 (a) In General. Every employer maintaining an office or  
23 transacting business within this State and required under the  
24 provisions of the Internal Revenue Code to withhold a tax on:

25 (1) compensation paid in this State (as determined

1 under Section 304(a) (2) (B) to an individual; or

2 (2) payments described in subsection (b) shall deduct  
3 and withhold from such compensation for each payroll period  
4 (as defined in Section 3401 of the Internal Revenue Code)  
5 an amount equal to the amount by which such individual's  
6 compensation exceeds the proportionate part of this  
7 withholding exemption (computed as provided in Section  
8 702) attributable to the payroll period for which such  
9 compensation is payable multiplied by a percentage equal to  
10 the percentage tax rate for individuals provided in  
11 subsection (b) of Section 201.

12 (b) Payment to Residents. Any payment (including  
13 compensation) to a resident by a payor maintaining an office or  
14 transacting business within this State (including any agency,  
15 officer, or employee of this State or of any political  
16 subdivision of this State) and on which withholding of tax is  
17 required under the provisions of the Internal Revenue Code  
18 shall be deemed to be compensation paid in this State by an  
19 employer to an employee for the purposes of Article 7 and  
20 Section 601(b) (1) to the extent such payment is included in the  
21 recipient's base income and not subjected to withholding by  
22 another state. Notwithstanding any other provision to the  
23 contrary, no amount shall be withheld from unemployment  
24 insurance benefit payments made to an individual pursuant to  
25 the Unemployment Insurance Act unless the individual has  
26 voluntarily elected the withholding pursuant to rules

1 promulgated by the Director of Employment Security.

2 (c) Special Definitions. Withholding shall be considered  
3 required under the provisions of the Internal Revenue Code to  
4 the extent the Internal Revenue Code either requires  
5 withholding or allows for voluntary withholding the payor and  
6 recipient have entered into such a voluntary withholding  
7 agreement. For the purposes of Article 7 and Section 1002(c)  
8 the term "employer" includes any payor who is required to  
9 withhold tax pursuant to this Section.

10 (d) Reciprocal Exemption. The Director may enter into an  
11 agreement with the taxing authorities of any state which  
12 imposes a tax on or measured by income to provide that  
13 compensation paid in such state to residents of this State  
14 shall be exempt from withholding of such tax; in such case, any  
15 compensation paid in this State to residents of such state  
16 shall be exempt from withholding. All reciprocal agreements  
17 shall be subject to the requirements of Section 2505-575 of the  
18 Department of Revenue Law (20 ILCS 2505/2505-575).

19 (e) Notwithstanding subsection (a)(2) of this Section, no  
20 withholding is required on payments for which withholding is  
21 required under Section 3405 or 3406 of the Internal Revenue  
22 Code ~~of 1954~~.

23 (Source: P.A. 92-846, eff. 8-23-02; 93-634, eff. 1-1-04.)

24 (35 ILCS 5/702) (from Ch. 120, par. 7-702)

25 Sec. 702. Amount Exempt from Withholding. For purposes of

1 this Section an employee shall be entitled to a withholding  
2 exemption in an amount equal to the basic amount in Section  
3 204(b) for each personal or dependent exemption which he is  
4 entitled to claim on his federal return pursuant to Section 151  
5 of the Internal Revenue Code ~~of 1986~~; plus an allowance equal  
6 to \$1,000 for each \$1,000 he is entitled to deduct from gross  
7 income in arriving at adjusted gross income pursuant to Section  
8 62 of the Internal Revenue Code ~~of 1986~~; plus an additional  
9 allowance equal to \$1,000 for each \$1,000 eligible for  
10 subtraction on his Illinois income tax return as Illinois real  
11 estate taxes paid during the taxable year; or in any lesser  
12 amount claimed by him. Every employee shall furnish to his  
13 employer such information as is required for the employer to  
14 make an accurate withholding under this Act. The employer may  
15 rely on this information for withholding purposes. If any  
16 employee fails or refuses to furnish such information, the  
17 employer shall withhold the full rate of tax from the  
18 employee's total compensation.

19 (Source: P.A. 90-613, eff. 7-9-98.)

20 (35 ILCS 5/703) (from Ch. 120, par. 7-703)

21 Sec. 703. Information statement. Every employer required  
22 to deduct and withhold tax under this Act from compensation of  
23 an employee, or who would have been required so to deduct and  
24 withhold tax if the employee's withholding exemption were not  
25 in excess of the basic amount in Section 204(b), shall furnish

1 in duplicate to each such employee in respect of the  
2 compensation paid by such employer to such employee during the  
3 calendar year on or before January 31 of the succeeding year,  
4 or, if his employment is terminated before the close of such  
5 calendar year, on the date on which the last payment of  
6 compensation is made, a written statement in such form as the  
7 Department may by regulation prescribe showing the amount of  
8 compensation paid by the employer to the employee, the amount  
9 deducted and withheld as tax, ~~the tax exempt amount contributed~~  
10 ~~to a medical savings account,~~ and such other information as the  
11 Department shall prescribe. A copy of such statement shall be  
12 filed by the employee with his return for his taxable year to  
13 which it relates (as determined under Section 601(b)(1)).

14 (Source: P.A. 91-841, eff. 6-22-00; 92-16, eff. 6-28-01.)

15 (35 ILCS 5/704A)

16 Sec. 704A. Employer's return and payment of tax withheld.

17 (a) In general, every employer who deducts and withholds or  
18 is required to deduct and withhold tax under this Act on or  
19 after January 1, 2008 shall make those payments and returns as  
20 provided in this Section.

21 (b) Returns. Every employer shall, in the form and manner  
22 required by the Department, make returns with respect to taxes  
23 withheld or required to be withheld under this Article 7 for  
24 each quarter beginning on or after January 1, 2008, on or  
25 before the last day of the first month following the close of

1 that quarter.

2 (c) Payments. With respect to amounts withheld or required  
3 to be withheld on or after January 1, 2008:

4 (1) Semi-weekly payments. For each calendar year, each  
5 employer who withheld or was required to withhold more than  
6 \$12,000 during the one-year period ending on June 30 of the  
7 immediately preceding calendar year, payment must be made:

8 (A) on or before each Friday of the calendar year,  
9 for taxes withheld or required to be withheld on the  
10 immediately preceding Saturday, Sunday, Monday, or  
11 Tuesday;

12 (B) on or before each Wednesday of the calendar  
13 year, for taxes withheld or required to be withheld on  
14 the immediately preceding Wednesday, Thursday, or  
15 Friday.

16 (2) Semi-weekly payments. Any employer who withholds  
17 or is required to withhold more than \$12,000 in any quarter  
18 of a calendar year is required to make payments on the  
19 dates set forth under item (1) of this subsection (c) for  
20 each remaining quarter of that calendar year and for the  
21 subsequent calendar year.

22 (3) Monthly payments. Each employer, other than an  
23 employer described in items (1) or (2) of this subsection,  
24 shall pay to the Department, on or before the 15th day of  
25 each month the taxes withheld or required to be withheld  
26 during the immediately preceding month.

1           (4) Payments with returns. Each employer shall pay to  
2           the Department, on or before the due date for each return  
3           required to be filed under this Section, any tax withheld  
4           or required to be withheld during the period for which the  
5           return is due and not previously paid to the Department.

6           (d) Regulatory authority. The Department may, by rule:

7           (1) If the aggregate amounts required to be withheld  
8           under this Article 7 do not exceed \$1,000 for the calendar  
9           year, permit employers, in lieu of the requirements of  
10          subsections (b) and (c), to file annual returns due on or  
11          before January 31 of the following year for taxes withheld  
12          or required to be withheld during that calendar year and to  
13          pay the taxes required to be shown on each such return no  
14          later than the due date for such return.

15          (2) Provide that any payment required to be made under  
16          subsection (c)(1) or (c)(2) is deemed to be timely to the  
17          extent paid by electronic funds transfer on or before the  
18          due date for deposit of federal income taxes withheld from,  
19          or federal employment taxes due with respect to, the wages  
20          from which the Illinois taxes were withheld.

21          (3) Designate one or more depositories to which payment  
22          of taxes required to be withheld under this Article 7 must  
23          be paid by some or all employers.

24          (4) Increase the threshold dollar amounts at which  
25          employers are required to make semi-weekly payments under  
26          subsection (c)(1) or (c)(2).

1           (e) Annual return and payment. Every employer who deducts  
2 and withholds or is required to deduct and withhold tax from a  
3 person engaged in domestic service employment, as that term is  
4 defined in Section 3510 of the Internal Revenue Code, may  
5 comply with the requirements of this Section with respect to  
6 such employees by filing an annual return and paying the taxes  
7 required to be deducted and withheld on or before the 15th day  
8 of the fourth month following the close of the employer's  
9 taxable year. The Department may allow the employer's return to  
10 be submitted with the employer's individual income tax return  
11 or to be submitted with a return due from the employer under  
12 Section 1400.2 of the Unemployment Insurance Act.

13           (f) Magnetic media and electronic filing. Any W-2 Form  
14 that, under the Internal Revenue Code and regulations  
15 promulgated thereunder, is required to be submitted to the  
16 Internal Revenue Service on magnetic media or electronically  
17 must also be submitted to the Department on magnetic media or  
18 electronically for Illinois purposes, if required by the  
19 Department.

20           (g) Interest on late payment. No interest shall accrue on  
21 any underpayment of an amount due under this Section prior to  
22 the due date (without regard for extensions) of the return on  
23 which the underpaid amount was reported or required to be  
24 reported.

25           (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08.)



1 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

2 Sec. 804. Failure to Pay Estimated Tax.

3 (a) In general. In case of any underpayment of estimated  
4 tax by a taxpayer, except as provided in subsection (d) or (e),  
5 the taxpayer shall be liable to a penalty in an amount  
6 determined at the rate prescribed by Section 3-3 of the Uniform  
7 Penalty and Interest Act upon the amount of the underpayment  
8 (determined under subsection (b)) for each required  
9 installment.

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

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

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

16 (c) Amount of Required Installments.

17 (1) Amount.

18 (A) In General. Except as provided in paragraph  
19 (2), the amount of any required installment shall be  
20 25% of the required annual payment.

21 (B) Required Annual Payment. For purposes of  
22 subparagraph (A), the term "required annual payment"  
23 means the lesser of

24 (i) 90% of the tax shown on the return for the  
25 taxable year, or if no return is filed, 90% of the  
26 tax for such year, or

1           (ii) 100% of the tax shown on the return of the  
2 taxpayer for the preceding taxable year if a return  
3 showing a liability for tax was filed by the  
4 taxpayer for the preceding taxable year and such  
5 preceding year was a taxable year of 12 months.

6           (2) Lower Required Installment where Annualized Income  
7 Installment is Less Than Amount Determined Under Paragraph  
8 (1).

9           (A) In General. In the case of any required  
10 installment if a taxpayer establishes that the  
11 annualized income installment is less than the amount  
12 determined under paragraph (1),

13           (i) the amount of such required installment  
14 shall be the annualized income installment, and

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

23           (B) Determination of Annualized Income  
24 Installment. In the case of any required installment,  
25 the annualized income installment is the excess, if  
26 any, of

1 (i) an amount equal to the applicable  
 2 percentage of the tax for the taxable year computed  
 3 by placing on an annualized basis the net income  
 4 for months in the taxable year ending before the  
 5 due date for the installment, over

6 (ii) the aggregate amount of any prior  
 7 required installments for the taxable year.

8 (C) Applicable Percentage.

9	In the case of the following	The applicable
10	required installments:	percentage is:
11	1st.....	22.5%
12	2nd.....	45%
13	3rd.....	67.5%
14	4th.....	90%

15 (D) Annualized Net Income; Individuals. For  
 16 individuals, net income shall be placed on an  
 17 annualized basis by:

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

25 (ii) dividing the resulting amount by the  
 26 number of months in the taxable year ending before

1 the month in which such installment date falls; and

2 (iii) deducting from such amount the standard  
3 exemption allowable for the taxable year, such  
4 standard exemption being determined as of the last  
5 date prescribed for payment of the installment.

6 (E) Annualized Net Income; Corporations. For  
7 corporations, net income shall be placed on an  
8 annualized basis by multiplying by 12 the taxable  
9 income

10 (i) for the first 3 months of the taxable year,  
11 in the case of the installment required to be paid  
12 in the 4th month,

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

16 (iii) for the first 6 months or for the first 8  
17 months of the taxable year, in the case of the  
18 installment required to be paid in the 9th month,  
19 and

20 (iv) for the first 9 months or for the first 11  
21 months of the taxable year, in the case of the  
22 installment required to be paid in the 12th month  
23 of the taxable year,

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

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

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

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

23 (g) Application of Section in case of tax withheld under  
24 Article 7. For purposes of applying this Section:

25 (1) ~~in the case of an individual,~~ tax withheld from  
26 compensation for the taxable year shall be deemed a payment

1 of estimated tax, and an equal part of such amount shall be  
2 deemed paid on each installment date for such taxable year,  
3 unless the taxpayer establishes the dates on which all  
4 amounts were actually withheld, in which case the amounts  
5 so withheld shall be deemed payments of estimated tax on  
6 the dates on which such amounts were actually withheld;

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

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

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

25 (i) Short taxable year. The application of this Section to  
26 taxable years of less than 12 months shall be in accordance

1 with regulations prescribed by the Department.

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

4 (Source: P.A. 95-233, eff. 8-16-07.)

5 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

6 Sec. 909. Credits and Refunds.

7 (a) In general. In the case of any overpayment, the  
8 Department, within the applicable period of limitations for a  
9 claim for refund, may credit the amount of such overpayment,  
10 including any interest allowed thereon, against any liability  
11 in respect of the tax imposed by this Act, regardless of  
12 whether other collection remedies are closed to the Department  
13 on the part of the person who made the overpayment and shall  
14 refund any balance to such person.

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

20 (c) Interest on overpayment. Interest shall be allowed and  
21 paid at the rate and in the manner prescribed in Section 3-2 of  
22 the Uniform Penalty and Interest Act upon any overpayment in  
23 respect of the tax imposed by this Act. For purposes of this  
24 subsection, no amount of tax, for any taxable year, shall be  
25 treated as having been paid before the date on which the tax

1 return for such year was due under Section 505, without regard  
2 to any extension of the time for filing such return.

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

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

19 (f) Effect of denial. A denial of a claim for refund  
20 becomes final 60 days after the date of issuance of the notice  
21 of such denial except for such amounts denied as to which the  
22 claimant has filed a protest with the Department, as provided  
23 by Section 910.

24 (g) An overpayment of tax shown on the face of an unsigned  
25 return shall be considered forfeited to the State if after  
26 notice and demand for signature by the Department the taxpayer



1 fails to provide a signature and 3 years have passed from the  
2 date the return was filed. An overpayment of tax refunded to a  
3 taxpayer whose return was filed electronically shall be  
4 considered an erroneous refund under Section 912 of this Act  
5 if, after proper notice and demand by the Department, the  
6 taxpayer fails to provide a required signature document. A  
7 notice and demand for signature in the case of a return  
8 reflecting an overpayment may be made by first class mail. This  
9 subsection (g) shall apply to all returns filed pursuant to  
10 this Act since 1969.

11 (h) This amendatory Act of 1983 applies to returns and  
12 claims for refunds filed with the Department on and after July  
13 1, 1983.

14 (Source: P.A. 89-399, eff. 8-20-95.)

15 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

16 Sec. 911. Limitations on Claims for Refund.

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

18 (1) A claim for refund shall be filed not later than 3  
19 years after the date the return was filed (in the case of  
20 returns required under Article 7 of this Act respecting any  
21 amounts withheld as tax, not later than 3 years after the  
22 15th day of the 4th month following the close of the  
23 calendar year in which such withholding was made), or one  
24 year after the date the tax was paid, whichever is the  
25 later; and

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

4           (b) Federal changes.

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

16          (2) Tentative carryback adjustments paid before  
17          January 1, 1974. If, as the result of the payment before  
18          January 1, 1974 of a federal tentative carryback  
19          adjustment, a notification of an alteration is required  
20          under Section 506(b), a claim for refund may be filed at  
21          any time before January 1, 1976, but the amount recoverable  
22          pursuant to a claim filed under this Section shall be  
23          limited to the amount of any overpayment resulting under  
24          this Act from recomputation of the taxpayer's base income  
25          for the taxable year after giving effect to the federal  
26          alteration resulting from the tentative carryback

1 adjustment irrespective of any limitation imposed in  
2 paragraph (1) of this subsection.

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

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

24 (1) Limit where claim filed within 3-year period. If  
25 the claim was filed by the claimant during the 3-year  
26 period prescribed in subsection (a), the amount of the

1 credit or refund shall not exceed the portion of the tax  
2 paid within the period, immediately preceding the filing of  
3 the claim, equal to 3 years plus the period of any  
4 extension of time for filing the return.

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

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

14 (f) No claim for refund or credit based on the taxpayer's  
15 taking a credit for estimated tax payments as provided by  
16 Section 601(b) (2) or for any amount paid by a taxpayer pursuant  
17 to Section 602(a) or for any amount of credit for tax withheld  
18 pursuant to Article 7 may be filed unless a return was filed  
19 for the tax year not more than 3 years after the due date, as  
20 provided by Section 505, of the return which was required to be  
21 filed relative to the taxable year for which the payments were  
22 made or for which the tax was withheld. The changes in this  
23 subsection (f) made by this amendatory Act of 1987 shall apply  
24 to all taxable years ending on or after December 31, 1969.

25 (g) Special Period of Limitation with Respect to Net Loss  
26 Carrybacks. If the claim for refund relates to an overpayment

1 attributable to a net loss carryback as provided by Section  
2 207, in lieu of the 3 year period of limitation prescribed in  
3 subsection (a), the period shall be that period which ends 3  
4 years after the time prescribed by law for filing the return  
5 (including extensions thereof) for the taxable year of the net  
6 loss which results in such carryback (or, on and after August  
7 13, 1999, with respect to a change in the carryover of an  
8 Article 2 credit to a taxable year resulting from the carryback  
9 of a Section 207 loss incurred in a taxable year beginning on  
10 or after January 1, 2000, the period shall be that period that  
11 ends 3 years after the time prescribed by law for filing the  
12 return (including extensions of that time) for that subsequent  
13 taxable year), or the period prescribed in subsection (c) in  
14 respect of such taxable year, whichever expires later. In the  
15 case of such a claim, the amount of the refund may exceed the  
16 portion of the tax paid within the period provided in  
17 subsection (d) to the extent of the amount of the overpayment  
18 attributable to such carryback. On and after August 13, 1999,  
19 if the claim for refund relates to an overpayment attributable  
20 to the carryover of an Article 2 credit, or of a Section 207  
21 loss, earned, incurred (in a taxable year beginning on or after  
22 January 1, 2000), or used in a year for which a notification of  
23 a change affecting federal taxable income must be filed under  
24 subsection (b) of Section 506, the claim may be filed within  
25 the period prescribed in paragraph (1) of subsection (b) in  
26 respect of the year for which the notification is required. In

1 the case of such a claim, the amount of the refund may exceed  
2 the portion of the tax paid within the period provided in  
3 subsection (d) to the extent of the amount of the overpayment  
4 attributable to the recomputation of the taxpayer's Article 2  
5 credits, or Section 207 loss, earned, incurred, or used in the  
6 taxable year for which the notification is given.

7 (h) Claim for refund based on net loss. On and after August  
8 23, 2002, no claim for refund shall be allowed to the extent  
9 the refund is the result of an amount of net loss incurred in  
10 any taxable year ending prior to December 31, 2002 under  
11 Section 207 of this Act that was not reported to the Department  
12 within 3 years of the due date (including extensions) of the  
13 return for the loss year on either the original return filed by  
14 the taxpayer or on amended return or to the extent that the  
15 refund is the result of an amount of net loss incurred in any  
16 taxable year under Section 207 for which no return was filed  
17 within 3 years of the due date (including extensions) of the  
18 return for the loss year.

19 (Source: P.A. 94-836, eff. 6-6-06; 95-233, eff. 8-16-07.)

20 (35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

21 Sec. 1002. Failure to Pay Tax.

22 (a) Negligence. If any part of a deficiency is due to  
23 negligence or intentional disregard of rules and regulations  
24 (but without intent to defraud) there shall be added to the tax  
25 as a penalty the amount prescribed by Section 3-5 of the

1 Uniform Penalty and Interest Act.

2 (b) Fraud. If any part of a deficiency is due to fraud,  
3 there shall be added to the tax as a penalty the amount  
4 prescribed by Section 3-6 of the Uniform Penalty and Interest  
5 Act.

6 (c) Nonwillful failure to pay withholding tax. If any  
7 employer, without intent to evade or defeat any tax imposed by  
8 this Act or the payment thereof, shall fail to make a return  
9 and pay a tax withheld by him at the time required by or under  
10 the provisions of this Act, such employer shall be liable for  
11 such taxes and shall pay the same together with the interest  
12 and the penalty provided by Sections 3-2 and 3-3, respectively,  
13 of the Uniform Penalty and Interest Act and such interest and  
14 penalty shall not be charged to or collected from the employee  
15 by the employer.

16 (d) Willful failure to collect and pay over tax. Any person  
17 required to collect, truthfully account for, and pay over the  
18 tax imposed by this Act who willfully fails to collect such tax  
19 or truthfully account for and pay over such tax or willfully  
20 attempts in any manner to evade or defeat the tax or the  
21 payment thereof, shall, in addition to other penalties provided  
22 by law, be liable for the penalty imposed by Section 3-7 of the  
23 Uniform Penalty and Interest Act.

24 (e) Penalties assessable.

25 (1) In general. Except as otherwise provided in this  
26 Act or the Uniform Penalty and Interest Act, the penalties

1 provided by this Act or by the Uniform Penalty and Interest  
2 Act shall be paid upon notice and demand and shall be  
3 assessed, collected, and paid in the same manner as taxes  
4 and any reference in this Act to the tax imposed by this  
5 Act shall be deemed also to refer to penalties provided by  
6 this Act or by the Uniform Penalty and Interest Act.

7 (2) Procedure for assessing certain penalties. For the  
8 purposes of Article 9 any penalty under Section 804(a) or  
9 Section 1001 shall be deemed assessed upon the filing of  
10 the return for the taxable year.

11 (3) Procedure for assessing the penalty for failure to  
12 file withholding returns or annual transmittal forms for  
13 wage and tax statements. The penalty imposed by Section  
14 1004 will be asserted by the Department's issuance of a  
15 notice of deficiency. If taxpayer files a timely protest,  
16 the procedures of Section 908 will be followed. If taxpayer  
17 does not file a timely protest, the notice of deficiency  
18 will constitute an assessment pursuant to subsection (c) of  
19 Section 904.

20 (4) Assessment of penalty under Section 1005(a) ~~1005~~  
21 ~~(b)~~. The penalty imposed under Section 1005(a) ~~1005(b)~~  
22 shall be deemed assessed upon the assessment of the tax to  
23 which such penalty relates and shall be collected and paid  
24 on notice and demand in the same manner as the tax.

25 (f) Determination of deficiency. For purposes of  
26 subsections (a) and (b), the amount shown as the tax by the



1 taxpayer upon his return shall be taken into account in  
2 determining the amount of the deficiency only if such return  
3 was filed on or before the last day prescribed by law for the  
4 filing of such return, including any extensions of the time for  
5 such filing.

6 (Source: P.A. 93-840, eff. 7-30-04.)

7 (35 ILCS 5/1101) (from Ch. 120, par. 11-1101)

8 Sec. 1101. Lien for Tax.

9 (a) If any person liable to pay any tax neglects or refuses  
10 to pay the same after demand, the amount (including any  
11 interest, additional amount, addition to tax, or assessable  
12 penalty, together with any costs that may accrue in addition  
13 thereto) shall be a lien in favor of the State of Illinois upon  
14 all property and rights to property, whether real or personal,  
15 belonging to such person.

16 (b) Unless another date is specifically fixed by law, the  
17 lien imposed by subsection (a) of this Section shall arise at  
18 the time the assessment is made and shall continue until the  
19 liability for the amount so assessed (or a judgment against the  
20 taxpayer arising out of such liability) is satisfied or becomes  
21 unenforceable by reason of lapse of time.

22 (c) Deficiency procedure. If the lien arises from an  
23 assessment pursuant to a notice of deficiency, such lien shall  
24 not attach and the notice referred to in this section shall not  
25 be filed until all proceedings in court for review of such

1 assessment have terminated or the time for the taking thereof  
2 has expired without such proceedings being instituted.

3 (d) Notice of lien. The lien created by assessment shall  
4 terminate unless a notice of lien is filed, as provided in  
5 section 1103 hereof, within 3 years from the date all  
6 proceedings in court for the review of such assessment have  
7 terminated or the time for the taking thereof has expired  
8 without such proceedings being instituted. Where the lien  
9 results from the filing of a return without payment of the tax  
10 or penalty shown therein to be due, the lien shall terminate  
11 unless a notice of lien is filed within 3 years from the date  
12 such return was filed with the Department. For the purposes of  
13 this subsection (d) ~~(e)~~, a tax return filed before the last day  
14 prescribed by law, including any extension thereof, shall be  
15 deemed to have been filed on such last day. The time limitation  
16 period on the Department's right to file a notice of lien shall  
17 not run during any period of time in which the order of any  
18 court has the effect of enjoining or restraining the Department  
19 from filing such notice of lien.

20 (Source: P.A. 86-905.)

21 (35 ILCS 5/1405.4)

22 Sec. 1405.4. Tax refund inquiries; response. The  
23 Department of Revenue shall establish procedures to inform  
24 taxpayers of the status of their refunds and shall provide a  
25 response to ~~respond in writing to~~ each inquiry concerning

1 refunds under this Act within 10 days after receiving the  
2 inquiry. ~~The response shall include the date the inquiry was~~  
3 ~~received, the file number assigned to the inquiry, and the name~~  
4 ~~and telephone number of a person within the Department of~~  
5 ~~Revenue whom the taxpayer may contact with further inquiries.~~

6 (Source: P.A. 89-89, eff. 6-30-95.)

7 Section 23. The Cigarette Use Tax Act is amended by  
8 changing Section 1 as follows:

9 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

10 Sec. 1. For the purpose of this Act, unless otherwise  
11 required by the context:

12 "Use" means the exercise by any person of any right or  
13 power over cigarettes incident to the ownership or possession  
14 thereof, other than the making of a sale thereof in the course  
15 of engaging in a business of selling cigarettes and shall  
16 include the keeping or retention of cigarettes for use, except  
17 "use" shall not include the use of cigarettes by a  
18 not-for-profit research institution conducting tests  
19 concerning the health effects of tobacco products, provided the  
20 cigarettes are not offered for resale.

21 "Cigarette" means any roll for smoking made wholly or in  
22 part of tobacco irrespective of size or shape and whether or  
23 not such tobacco is flavored, adulterated or mixed with any  
24 other ingredient, and the wrapper or cover of which is made of

1 paper or any other substance or material except tobacco.

2 "Person" means any natural individual, firm, partnership,  
3 association, joint stock company, joint adventure, public or  
4 private corporation, however formed, limited liability  
5 company, or a receiver, executor, administrator, trustee,  
6 guardian or other representative appointed by order of any  
7 court.

8 "Department" means the Department of Revenue.

9 "Sale" means any transfer, exchange or barter in any manner  
10 or by any means whatsoever for a consideration, and includes  
11 and means all sales made by any person.

12 "Original Package" means the individual packet, box or  
13 other container whatsoever used to contain and to convey  
14 cigarettes to the consumer.

15 "Distributor" means any and each of the following:

16 a. Any person engaged in the business of selling  
17 cigarettes in this State who brings or causes to be brought  
18 into this State from without this State any original  
19 packages of cigarettes, on which original packages there is  
20 no authorized evidence underneath a sealed transparent  
21 wrapper showing that the tax liability imposed by this Act  
22 has been paid or assumed by the out-of-State seller of such  
23 cigarettes, for sale in the course of such business.

24 b. Any person who makes, manufactures or fabricates  
25 cigarettes in this State for sale, except a person who  
26 makes, manufactures or fabricates cigarettes for sale to

1 residents incarcerated in penal institutions or resident  
2 patients or a State-operated mental health facility.

3 c. Any person who makes, manufactures or fabricates  
4 cigarettes outside this State, which cigarettes are placed  
5 in original packages contained in sealed transparent  
6 wrappers, for delivery or shipment into this State, and who  
7 elects to qualify and is accepted by the Department as a  
8 distributor under Section 7 of this Act.

9 "Distributor" does not include any person who transfers  
10 cigarettes to a not-for-profit research institution that  
11 conducts tests concerning the health effects of tobacco  
12 products and who does not offer the cigarettes for resale.

13 "Distributor maintaining a place of business in this  
14 State", or any like term, means any distributor having or  
15 maintaining within this State, directly or by a subsidiary, an  
16 office, distribution house, sales house, warehouse or other  
17 place of business, or any agent operating within this State  
18 under the authority of the distributor or its subsidiary,  
19 irrespective of whether such place of business or agent is  
20 located here permanently or temporarily, or whether such  
21 distributor or subsidiary is licensed to transact business  
22 within this State.

23 "Business" means any trade, occupation, activity or  
24 enterprise engaged in or conducted in this State for the  
25 purpose of selling cigarettes.

26 "Prior Continuous Compliance Taxpayer" means any person

1 who is licensed under this Act and who, having been a licensee  
2 for a continuous period of 5 years, is determined by the  
3 Department not to have been either delinquent or deficient in  
4 the payment of tax liability during that period or otherwise in  
5 violation of this Act. Also, any taxpayer who has, as verified  
6 by the Department, continuously complied with the condition of  
7 his bond or other security under provisions of this Act of a  
8 period of 5 consecutive years shall be considered to be a  
9 "prior continuous compliance taxpayer". In calculating the  
10 consecutive period of time described herein for qualification  
11 as a "prior continuous compliance taxpayer", a consecutive  
12 period of time of qualifying compliance immediately prior to  
13 the effective date of this amendatory Act of 1987 shall be  
14 credited to any licensee who became licensed on or before the  
15 effective date of this amendatory Act of 1987.

16 (Source: P.A. 95-462, eff. 8-27-07.)

17 Section 25. The Motor Fuel Tax Law is amended by changing  
18 Sections 1.2, 1.14, 1.22, 3, 3a, 5, 5a, 8, 13, 13a.4, and 13a.5  
19 and by adding Section 17a as follows:

20 (35 ILCS 505/1.2) (from Ch. 120, par. 417.2)

21 Sec. 1.2. Distributor. "Distributor" means a person who  
22 either (i) produces, refines, blends, compounds or  
23 manufactures motor fuel in this State, or (ii) transports motor  
24 fuel into this State, or (iii) exports motor fuel out of this

1 State; or (iv) engages in the distribution of motor fuel  
2 primarily by tank car or tank truck, or both, and who operates  
3 an Illinois bulk plant where he or she has active bulk storage  
4 capacity of not less than 30,000 gallons for gasoline as  
5 defined in item (A) of Section 5 of this Law.

6 "Distributor" does not, however, include a person who  
7 receives or transports into this State and sells or uses motor  
8 fuel under such circumstances as preclude the collection of the  
9 tax herein imposed, by reason of the provisions of the  
10 constitution and statutes of the United States. However, a  
11 person operating a motor vehicle into the State, may transport  
12 motor fuel in the ordinary fuel tank attached to the motor  
13 vehicle for the operation of the motor vehicle, without being  
14 considered a distributor. Any railroad licensed as a bulk user  
15 and registered under Section 18c-7201 of the Illinois Vehicle  
16 Code may deliver special fuel directly into the fuel supply  
17 tank of a locomotive owned, operated, or controlled by any  
18 other railroad registered under Section 18c-7201 of the  
19 Illinois Vehicle Code without being considered a distributor.

20 (Source: P.A. 91-173, eff. 1-1-00; 91-198, eff. 7-20-99; 92-16,  
21 eff. 6-28-01.)

22 (35 ILCS 505/1.14) (from Ch. 120, par. 417.14)

23 Sec. 1.14. Supplier. "Supplier" means any person other than  
24 a licensed distributor who (i) transports special fuel into  
25 this State; ~~or~~ (ii) exports special fuel out of this State; or

1 (iii) engages in the distribution of special fuel primarily by  
2 tank car or tank truck, or both, and who operates an Illinois  
3 bulk plant where he has active bulk storage capacity of not  
4 less than 30,000 gallons for special fuel as defined in Section  
5 1.13 of this Law.

6 "Supplier" does not, however, include a person who receives  
7 or transports into this State and sells or uses special fuel  
8 under such circumstances as preclude the collection of the tax  
9 herein imposed, by reason of the provisions of the Constitution  
10 and laws of the United States. However, a person operating a  
11 motor vehicle into the State, may transport special fuel in the  
12 ordinary fuel tank attached to the motor vehicle for the  
13 operation of the motor vehicle without being considered a  
14 supplier. Any railroad licensed as a bulk user and registered  
15 under Section 18c-7201 of the Illinois Vehicle Code may deliver  
16 special fuel directly into the fuel supply tank of a locomotive  
17 owned, operated, or controlled by any other railroad registered  
18 under Section 18c-7201 of the Illinois Vehicle Code without  
19 being considered a supplier.

20 (Source: P.A. 91-173, eff. 1-1-00; 91-198, eff. 7-20-99; 92-16,  
21 eff. 6-28-01.)

22 (35 ILCS 505/1.22)

23 Sec. 1.22. "Jurisdiction" means a state of the United  
24 States, the District of Columbia, a state of the United Mexican  
25 States, or a province or Territory of Canada.



1 (Source: P.A. 88-480.)

2 (35 ILCS 505/3) (from Ch. 120, par. 419)

3 Sec. 3. No person shall act as a distributor of motor fuel  
4 within this State without first securing a license to act as a  
5 distributor of motor fuel from the Department. Application for  
6 such license shall be made to the Department upon blanks  
7 furnished by it. The application shall be signed and verified,  
8 and shall contain such information as the Department deems  
9 necessary. A blender shall, in addition to securing a  
10 distributor's license, make application to the Department for a  
11 blender's permit, setting forth in the application such  
12 information as the Department deems necessary. The applicant  
13 for a distributor's license shall also file with the Department  
14 a bond on a form to be approved by and with a surety or sureties  
15 satisfactory to the Department conditioned upon such applicant  
16 paying to the State of Illinois all monies becoming due by  
17 reason of the sale, export, or use of motor fuel by the  
18 applicant, together with all penalties and interest thereon.  
19 The Department shall fix the penalty of such bond in each case  
20 taking into consideration the amount of motor fuel expected to  
21 be sold, distributed, exported, and used by such applicant and  
22 the penalty fixed by the Department shall be such, as in its  
23 opinion, will protect the State of Illinois against failure to  
24 pay the amount hereinafter provided on motor fuel sold,  
25 distributed, exported, and used, but the amount of the penalty

1 fixed by the Department shall not exceed twice the monthly  
2 amount that would be collectable as a tax in the event of a  
3 sale on all the motor fuel sold, distributed, exported, and  
4 used by the distributor inclusive of tax-free sales, exports,  
5 use, or distribution. Upon receipt of the application and bond  
6 in proper form, the Department shall issue to the applicant a  
7 license to act as a distributor. No person who is in default to  
8 the State for monies due under this Act for the sale,  
9 distribution, export, or use of motor fuel shall receive a  
10 license to act as a distributor.

11 A license shall not be granted to any person whose  
12 principal place of business is in a state other than Illinois,  
13 unless such person is licensed for motor fuel distribution or  
14 export in the state in which the principal place of business is  
15 located and that such person is not in default to that State  
16 for any monies due for the sale, distribution, export, or use  
17 of motor fuel.

18 (Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)

19 (35 ILCS 505/3a) (from Ch. 120, par. 419a)

20 Sec. 3a. No person, other than a licensed distributor,  
21 shall act as a supplier of special fuel within this State  
22 without first securing a license to act as a supplier of  
23 special fuel from the Department.

24 Application for such license shall be made to the  
25 Department upon blanks furnished by it. The application shall

1 be signed and verified and shall contain such information as  
2 the Department deems necessary.

3 The applicant for a supplier's license shall also file,  
4 with the Department, a bond on a form to be approved by and  
5 with a surety or sureties satisfactory to the Department,  
6 conditioned upon such applicant paying to the State of Illinois  
7 all moneys becoming due by reason of the sale or use of special  
8 fuel by the applicant, together with all penalties and interest  
9 thereon. The Department shall fix the penalty of such bond in  
10 each case, taking into consideration the amount of special fuel  
11 expected to be sold, distributed, exported, and used by such  
12 applicant, and the penalty fixed by the Department shall be  
13 such, as in its opinion, will protect the State of Illinois  
14 against failure to pay the amount hereinafter provided on  
15 special fuel sold, distributed, exported, and used, but the  
16 amount of the penalty fixed by the Department shall not exceed  
17 twice the monthly amount of tax liability that would be  
18 collectable as a tax in the event of a taxable sale on all the  
19 special fuel sold, distributed, exported, and used by the  
20 supplier inclusive of tax-free sales, use, exports, or  
21 distribution.

22 Upon receipt of the application and bond in proper form,  
23 the Department shall issue to the applicant a license to act as  
24 a supplier. No person who is in default to the State for moneys  
25 due under this Act for the sale, distribution, export, or use  
26 of motor fuel shall receive a license to act as a supplier.

1           A license shall not be granted to any person whose  
2 principal place of business is in a state other than Illinois,  
3 unless such person is licensed for motor fuel distribution or  
4 export in the State in which the principal place of business is  
5 located and that other State requires such license and that  
6 such person is not in default to that State for any monies due  
7 for the sale, distribution, export, or use of motor fuel.

8           (Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)

9           (35 ILCS 505/5) (from Ch. 120, par. 421)

10           Sec. 5. Except as hereinafter provided, a person holding a  
11 valid unrevoked license to act as a distributor of motor fuel  
12 shall, between the 1st and 20th days of each calendar month,  
13 make return to the Department, showing an itemized statement of  
14 the number of invoiced gallons of motor fuel of the types  
15 specified in this Section which were purchased, acquired, ~~or~~  
16 received, or exported during the preceding calendar month; the  
17 amount of such motor fuel produced, refined, compounded,  
18 manufactured, blended, sold, distributed, exported, and used  
19 by the licensed distributor during the preceding calendar  
20 month; the amount of such motor fuel lost or destroyed during  
21 the preceding calendar month; the amount of such motor fuel on  
22 hand at the close of business for such month; and such other  
23 reasonable information as the Department may require. If a  
24 distributor's only activities with respect to motor fuel are  
25 either: (1) production of alcohol in quantities of less than

1 10,000 proof gallons per year or (2) blending alcohol in  
2 quantities of less than 10,000 proof gallons per year which  
3 such distributor has produced, he shall file returns on an  
4 annual basis with the return for a given year being due by  
5 January 20 of the following year. Distributors whose total  
6 production of alcohol (whether blended or not) exceeds 10,000  
7 proof gallons per year, based on production during the  
8 preceding (calendar) year or as reasonably projected by the  
9 Department if one calendar year's record of production cannot  
10 be established, shall file returns between the 1st and 20th  
11 days of each calendar month as hereinabove provided.

12 The types of motor fuel referred to in the preceding  
13 paragraph are: (A) All products commonly or commercially known  
14 or sold as gasoline (including casing-head and absorption or  
15 natural gasoline), gasohol, motor benzol or motor benzene  
16 regardless of their classification or uses; and (B) all  
17 combustible gases which exist in a gaseous state at 60 degrees  
18 Fahrenheit and at 14.7 pounds per square inch absolute  
19 including, but not limited to, liquefied petroleum gases used  
20 for highway purposes; and (C) special fuel. Only those  
21 quantities of combustible gases (example (B) above) which are  
22 used or sold by the distributor to be used to propel motor  
23 vehicles on the public highways, or which are delivered into a  
24 storage tank that is located at a facility that has withdrawal  
25 facilities which are readily accessible to and are capable of  
26 dispensing combustible gases into the fuel supply tanks of

1 motor vehicles, shall be subject to return. For the purposes of  
2 this Act, liquefied petroleum gases shall mean and include any  
3 material having a vapor pressure not exceeding that allowed for  
4 commercial propane composed predominantly of the following  
5 hydrocarbons, either by themselves or as mixtures: Propane,  
6 Propylene, Butane (normal butane or iso-butane) and Butylene  
7 (including isomers).

8 In case of a sale of special fuel to someone other than a  
9 licensed distributor, or a licensed supplier, for a use other  
10 than in motor vehicles, the distributor shall show in his  
11 return the amount of invoiced gallons sold and the name and  
12 address of the purchaser in addition to any other information  
13 the Department may require.

14 All special fuel sold or used for non-highway purposes must  
15 have a dye added in accordance with Section 4d of this Law.

16 In case of a tax-free sale, as provided in Section 6, of  
17 motor fuel which the distributor is required by this Section to  
18 include in his return to the Department, the distributor in his  
19 return shall show: (1) If the sale is made to another licensed  
20 distributor the amount sold and the name, address and license  
21 number of the purchasing distributor; (2) if the sale is made  
22 to a person where delivery is made outside of this State the  
23 name and address of such purchaser and the point of delivery  
24 together with the date and amount delivered; (3) if the sale is  
25 made to the Federal Government or its instrumentalities the  
26 amount sold; (4) if the sale is made to a municipal corporation

1 owning and operating a local transportation system for public  
2 service in this State the name and address of such purchaser,  
3 and the amount sold, as evidenced by official forms of  
4 exemption certificates properly executed and furnished by such  
5 purchaser; (5) if the sale is made to a privately owned public  
6 utility owning and operating 2-axle vehicles designed and used  
7 for transporting more than 7 passengers, which vehicles are  
8 used as common carriers in general transportation of  
9 passengers, are not devoted to any specialized purpose and are  
10 operated entirely within the territorial limits of a single  
11 municipality or of any group of contiguous municipalities or in  
12 a close radius thereof, and the operations of which are subject  
13 to the regulations of the Illinois Commerce Commission, then  
14 the name and address of such purchaser and the amount sold as  
15 evidenced by official forms of exemption certificates properly  
16 executed and furnished by the purchaser; (6) if the product  
17 sold is special fuel and if the sale is made to a licensed  
18 supplier under conditions which qualify the sale for tax  
19 exemption under Section 6 of this Act, the amount sold and the  
20 name, address and license number of the purchaser; and (7) if a  
21 sale of special fuel is made to someone other than a licensed  
22 distributor, or a licensed supplier, for a use other than in  
23 motor vehicles, by making a specific notation thereof on the  
24 invoice or sales slip covering such sales and obtaining such  
25 supporting documentation as may be required by the Department.

26 All special fuel sold or used for non-highway purposes must

1 have a dye added in accordance with Section 4d of this Law.

2 A person whose license to act as a distributor of motor  
3 fuel has been revoked shall make a return to the Department  
4 covering the period from the date of the last return to the  
5 date of the revocation of the license, which return shall be  
6 delivered to the Department not later than 10 days from the  
7 date of the revocation or termination of the license of such  
8 distributor; the return shall in all other respects be subject  
9 to the same provisions and conditions as returns by  
10 distributors licensed under the provisions of this Act.

11 The records, waybills and supporting documents kept by  
12 railroads and other common carriers in the regular course of  
13 business shall be prima facie evidence of the contents and  
14 receipt of cars or tanks covered by those records, waybills or  
15 supporting documents.

16 If the Department has reason to believe and does believe  
17 that the amount shown on the return as purchased, acquired,  
18 received, exported sold, used, lost or destroyed is incorrect,  
19 or that an amount of motor fuel of the types required by the  
20 second paragraph of this Section to be reported to the  
21 Department has not been correctly reported the Department shall  
22 fix an amount for such receipt, sales, export, use, loss or  
23 destruction according to its best judgment and information,  
24 which amount so fixed by the Department shall be prima facie  
25 correct. All returns shall be made on forms prepared and  
26 furnished by the Department, and shall contain such other



1 information as the Department may reasonably require. The  
2 return must be accompanied by appropriate computer-generated  
3 magnetic media supporting schedule data in the format required  
4 by the Department, unless, as provided by rule, the Department  
5 grants an exception upon petition of a taxpayer. All licensed  
6 distributors shall report all losses of motor fuel sustained on  
7 account of fire, ~~theft~~, spillage, spoilage, leakage, or any  
8 other provable cause , but not including theft, when filing the  
9 return for the period during which the loss occurred. The mere  
10 making of the report does not assure the allowance of the loss  
11 as a reduction in tax liability. Losses of motor fuel as the  
12 result of evaporation or shrinkage due to temperature  
13 variations may not exceed 1% of the total gallons in storage at  
14 the beginning of the month, plus the receipts of gallonage  
15 during the month, minus the gallonage remaining in storage at  
16 the end of the month. Any loss reported that is in excess of 1%  
17 shall be subject to the tax imposed by Section 2 of this Law.  
18 On and after July 1, 2001, for each 6-month period January  
19 through June, net losses of motor fuel (for each category of  
20 motor fuel that is required to be reported on a return) as the  
21 result of evaporation or shrinkage due to temperature  
22 variations may not exceed 1% of the total gallons in storage at  
23 the beginning of each January, plus the receipts of gallonage  
24 each January through June, minus the gallonage remaining in  
25 storage at the end of each June. On and after July 1, 2001, for  
26 each 6-month period July through December, net losses of motor

1 fuel (for each category of motor fuel that is required to be  
2 reported on a return) as the result of evaporation or shrinkage  
3 due to temperature variations may not exceed 1% of the total  
4 gallons in storage at the beginning of each July, plus the  
5 receipts of gallonage each July through December, minus the  
6 gallonage remaining in storage at the end of each December. Any  
7 net loss reported that is in excess of this amount shall be  
8 subject to the tax imposed by Section 2 of this Law. For  
9 purposes of this Section, "net loss" means the number of  
10 gallons gained through temperature variations minus the number  
11 of gallons lost through temperature variations or evaporation  
12 for each of the respective 6-month periods.

13 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

14 (35 ILCS 505/5a) (from Ch. 120, par. 421a)

15 Sec. 5a. A person holding a valid unrevoked license to act  
16 as a supplier of special fuel shall, between the 1st and 20th  
17 days of each calendar month, make return to the Department  
18 showing an itemized statement of the number of invoiced gallons  
19 of special fuel acquired, received, purchased, sold, exported,  
20 or used during the preceding calendar month; the amount of  
21 special fuel sold, distributed, exported, and used by the  
22 licensed supplier during the preceding calendar month; the  
23 amount of special fuel lost or destroyed during the preceding  
24 calendar month; the amount of special fuel on hand at the close  
25 of business for the preceding calendar month; and such other

1 reasonable information as the Department may require.

2 A person whose license to act as a supplier of special fuel  
3 has been revoked shall make a return to the Department covering  
4 the period from the date of the last return to the date of the  
5 revocation of the license, which return shall be delivered to  
6 the Department not later than 10 days from the date of the  
7 revocation or termination of the license of such supplier. The  
8 return shall in all other respects be subject to the same  
9 provisions and conditions as returns by suppliers licensed  
10 under this Act.

11 The records, waybills and supporting documents kept by  
12 railroads and other common carriers in the regular course of  
13 business shall be prima facie evidence of the contents and  
14 receipt of cars or tanks covered by those records, waybills or  
15 supporting documents.

16 If the Department has reason to believe and does believe  
17 that the amount shown on the return as purchased, acquired,  
18 received, sold, exported, used, or lost is incorrect, or that  
19 an amount of special fuel of the type required by the 1st  
20 paragraph of this Section to be reported to the Department by  
21 suppliers has not been correctly reported as a purchase,  
22 receipt, sale, use, export, or loss the Department shall fix an  
23 amount for such purchase, receipt, sale, use, export, or loss  
24 according to its best judgment and information, which amount so  
25 fixed by the Department shall be prima facie correct. All  
26 licensed suppliers shall report all losses of special fuel

1 sustained on account of fire, ~~theft,~~ spillage, spoilage,  
2 leakage, or any other provable cause, but not including theft,  
3 when filing the return for the period during which the loss  
4 occurred. The mere making of the report does not assure the  
5 allowance of the loss as a reduction in tax liability. Losses  
6 of special fuel as the result of evaporation or shrinkage due  
7 to temperature variations may not exceed 1% of the total  
8 gallons in storage at the beginning of the month, plus the  
9 receipts of gallonage during the month, minus the gallonage  
10 remaining in storage at the end of the month.

11 Any loss reported that is in excess of 1% shall be subject  
12 to the tax imposed by Section 2 of this Law. On and after July  
13 1, 2001, for each 6-month period January through June, net  
14 losses of special fuel (for each category of special fuel that  
15 is required to be reported on a return) as the result of  
16 evaporation or shrinkage due to temperature variations may not  
17 exceed 1% of the total gallons in storage at the beginning of  
18 each January, plus the receipts of gallonage each January  
19 through June, minus the gallonage remaining in storage at the  
20 end of each June. On and after July 1, 2001, for each 6-month  
21 period July through December, net losses of special fuel (for  
22 each category of special fuel that is required to be reported  
23 on a return) as the result of evaporation or shrinkage due to  
24 temperature variations may not exceed 1% of the total gallons  
25 in storage at the beginning of each July, plus the receipts of  
26 gallonage each July through December, minus the gallonage

1 remaining in storage at the end of each December. Any net loss  
2 reported that is in excess of this amount shall be subject to  
3 the tax imposed by Section 2 of this Law. For purposes of this  
4 Section, "net loss" means the number of gallons gained through  
5 temperature variations minus the number of gallons lost through  
6 temperature variations or evaporation for each of the  
7 respective 6-month periods.

8 In case of a sale of special fuel to someone other than a  
9 licensed distributor or licensed supplier for a use other than  
10 in motor vehicles, the supplier shall show in his return the  
11 amount of invoiced gallons sold and the name and address of the  
12 purchaser in addition to any other information the Department  
13 may require.

14 All special fuel sold or used for non-highway purposes must  
15 have a dye added in accordance with Section 4d of this Law.

16 All returns shall be made on forms prepared and furnished  
17 by the Department and shall contain such other information as  
18 the Department may reasonably require. The return must be  
19 accompanied by appropriate computer-generated magnetic media  
20 supporting schedule data in the format required by the  
21 Department, unless, as provided by rule, the Department grants  
22 an exception upon petition of a taxpayer.

23 In case of a tax-free sale, as provided in Section 6a, of  
24 special fuel which the supplier is required by this Section to  
25 include in his return to the Department, the supplier in his  
26 return shall show: (1) If the sale of special fuel is made to

1 the Federal Government or its instrumentalities; (2) if the  
2 sale of special fuel is made to a municipal corporation owning  
3 and operating a local transportation system for public service  
4 in this State, the name and address of such purchaser and the  
5 amount sold, as evidenced by official forms of exemption  
6 certificates properly executed and furnished by such  
7 purchaser; (3) if the sale of special fuel is made to a  
8 privately owned public utility owning and operating 2-axle  
9 vehicles designed and used for transporting more than 7  
10 passengers, which vehicles are used as common carriers in  
11 general transportation of passengers, are not devoted to any  
12 specialized purpose and are operated entirely within the  
13 territorial limits of a single municipality or of any group of  
14 contiguous municipalities or in a close radius thereof, and the  
15 operations of which are subject to the regulations of the  
16 Illinois Commerce Commission, then the name and address of such  
17 purchaser and the amount sold, as evidenced by official forms  
18 of exemption certificates properly executed and furnished by  
19 such purchaser; (4) if the product sold is special fuel and if  
20 the sale is made to a licensed supplier or to a licensed  
21 distributor under conditions which qualify the sale for tax  
22 exemption under Section 6a of this Act, the amount sold and the  
23 name, address and license number of such purchaser; (5) if a  
24 sale of special fuel is made to a person where delivery is made  
25 outside of this State, the name and address of such purchaser  
26 and the point of delivery together with the date and amount of

1 invoiced gallons delivered; and (6) if a sale of special fuel  
2 is made to someone other than a licensed distributor or a  
3 licensed supplier, for a use other than in motor vehicles, by  
4 making a specific notation thereof on the invoice or sales slip  
5 covering that sale and obtaining such supporting documentation  
6 as may be required by the Department.

7 All special fuel sold or used for non-highway purposes must  
8 have a dye added in accordance with Section 4d of this Law.

9 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

10 (35 ILCS 505/8) (from Ch. 120, par. 424)

11 Sec. 8. Except as provided in Section 8a, subdivision  
12 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and  
13 16 of Section 15, all money received by the Department under  
14 this Act, including payments made to the Department by member  
15 jurisdictions participating in the International Fuel Tax  
16 Agreement, shall be deposited in a special fund in the State  
17 treasury, to be known as the "Motor Fuel Tax Fund", and shall  
18 be used as follows:

19 (a) 2 1/2 cents per gallon of the tax collected on special  
20 fuel under paragraph (b) of Section 2 and Section 13a of this  
21 Act shall be transferred to the State Construction Account Fund  
22 in the State Treasury;

23 (b) \$420,000 shall be transferred each month to the State  
24 Boating Act Fund to be used by the Department of Natural  
25 Resources for the purposes specified in Article X of the Boat

1 Registration and Safety Act;

2 (c) \$2,250,000 shall be transferred each month to the Grade  
3 Crossing Protection Fund to be used as follows: not less than  
4 \$6,000,000 each fiscal year shall be used for the construction  
5 or reconstruction of rail highway grade separation structures;  
6 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter  
7 shall be transferred to the Transportation Regulatory Fund and  
8 shall be accounted for as part of the rail carrier portion of  
9 such funds and shall be used to pay the cost of administration  
10 of the Illinois Commerce Commission's railroad safety program  
11 in connection with its duties under subsection (3) of Section  
12 18c-7401 of the Illinois Vehicle Code, with the remainder to be  
13 used by the Department of Transportation upon order of the  
14 Illinois Commerce Commission, to pay that part of the cost  
15 apportioned by such Commission to the State to cover the  
16 interest of the public in the use of highways, roads, streets,  
17 or pedestrian walkways in the county highway system, township  
18 and district road system, or municipal street system as defined  
19 in the Illinois Highway Code, as the same may from time to time  
20 be amended, for separation of grades, for installation,  
21 construction or reconstruction of crossing protection or  
22 reconstruction, alteration, relocation including construction  
23 or improvement of any existing highway necessary for access to  
24 property or improvement of any grade crossing including the  
25 necessary highway approaches thereto of any railroad across the  
26 highway or public road, or for the installation, construction,



1 reconstruction, or maintenance of a pedestrian walkway over or  
2 under a railroad right-of-way, as provided for in and in  
3 accordance with Section 18c-7401 of the Illinois Vehicle Code.  
4 The Commission shall not order more than \$2,000,000 per year in  
5 Grade Crossing Protection Fund moneys for pedestrian walkways.  
6 In entering orders for projects for which payments from the  
7 Grade Crossing Protection Fund will be made, the Commission  
8 shall account for expenditures authorized by the orders on a  
9 cash rather than an accrual basis. For purposes of this  
10 requirement an "accrual basis" assumes that the total cost of  
11 the project is expended in the fiscal year in which the order  
12 is entered, while a "cash basis" allocates the cost of the  
13 project among fiscal years as expenditures are actually made.  
14 To meet the requirements of this subsection, the Illinois  
15 Commerce Commission shall develop annual and 5-year project  
16 plans of rail crossing capital improvements that will be paid  
17 for with moneys from the Grade Crossing Protection Fund. The  
18 annual project plan shall identify projects for the succeeding  
19 fiscal year and the 5-year project plan shall identify projects  
20 for the 5 directly succeeding fiscal years. The Commission  
21 shall submit the annual and 5-year project plans for this Fund  
22 to the Governor, the President of the Senate, the Senate  
23 Minority Leader, the Speaker of the House of Representatives,  
24 and the Minority Leader of the House of Representatives on the  
25 first Wednesday in April of each year;

26 (d) of the amount remaining after allocations provided for

1 in subsections (a), (b) and (c), a sufficient amount shall be  
2 reserved to pay all of the following:

3 (1) the costs of the Department of Revenue in  
4 administering this Act;

5 (2) the costs of the Department of Transportation in  
6 performing its duties imposed by the Illinois Highway Code  
7 for supervising the use of motor fuel tax funds apportioned  
8 to municipalities, counties and road districts;

9 (3) refunds provided for in Section 13 of this Act, and  
10 refunds for overpayment of decal fees paid under Section  
11 13a.4 of this Act, and under the terms of the International  
12 Fuel Tax Agreement referenced in Section 14a;

13 (4) from October 1, 1985 until June 30, 1994, the  
14 administration of the Vehicle Emissions Inspection Law,  
15 which amount shall be certified monthly by the  
16 Environmental Protection Agency to the State Comptroller  
17 and shall promptly be transferred by the State Comptroller  
18 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
19 Inspection Fund, and for the period July 1, 1994 through  
20 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
21 the period July 1, 2000 through June 30, 2003, one-twelfth  
22 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
23 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each  
24 July 1 and October 1, or as soon thereafter as may be  
25 practical, during the period July 1, 2004 through June 30,  
26 2009, for the administration of the Vehicle Emissions

1 Inspection Law of 2005, to be transferred by the State  
2 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
3 the Vehicle Inspection Fund;

4 (5) amounts ordered paid by the Court of Claims; and

5 (6) payment of motor fuel use taxes due to member  
6 jurisdictions under the terms of the International Fuel Tax  
7 Agreement. The Department shall certify these amounts to  
8 the Comptroller by the 15th day of each month; the  
9 Comptroller shall cause orders to be drawn for such  
10 amounts, and the Treasurer shall administer those amounts  
11 on or before the last day of each month;

12 (e) after allocations for the purposes set forth in  
13 subsections (a), (b), (c) and (d), the remaining amount shall  
14 be apportioned as follows:

15 (1) Until January 1, 2000, 58.4%, and beginning January  
16 1, 2000, 45.6% shall be deposited as follows:

17 (A) 37% into the State Construction Account Fund,  
18 and

19 (B) 63% into the Road Fund, \$1,250,000 of which  
20 shall be reserved each month for the Department of  
21 Transportation to be used in accordance with the  
22 provisions of Sections 6-901 through 6-906 of the  
23 Illinois Highway Code;

24 (2) Until January 1, 2000, 41.6%, and beginning January  
25 1, 2000, 54.4% shall be transferred to the Department of  
26 Transportation to be distributed as follows:

- 1 (A) 49.10% to the municipalities of the State,  
2 (B) 16.74% to the counties of the State having  
3 1,000,000 or more inhabitants,  
4 (C) 18.27% to the counties of the State having less  
5 than 1,000,000 inhabitants,  
6 (D) 15.89% to the road districts of the State.

7 As soon as may be after the first day of each month the  
8 Department of Transportation shall allot to each municipality  
9 its share of the amount apportioned to the several  
10 municipalities which shall be in proportion to the population  
11 of such municipalities as determined by the last preceding  
12 municipal census if conducted by the Federal Government or  
13 Federal census. If territory is annexed to any municipality  
14 subsequent to the time of the last preceding census the  
15 corporate authorities of such municipality may cause a census  
16 to be taken of such annexed territory and the population so  
17 ascertained for such territory shall be added to the population  
18 of the municipality as determined by the last preceding census  
19 for the purpose of determining the allotment for that  
20 municipality. If the population of any municipality was not  
21 determined by the last Federal census preceding any  
22 apportionment, the apportionment to such municipality shall be  
23 in accordance with any census taken by such municipality. Any  
24 municipal census used in accordance with this Section shall be  
25 certified to the Department of Transportation by the clerk of  
26 such municipality, and the accuracy thereof shall be subject to

1 approval of the Department which may make such corrections as  
2 it ascertains to be necessary.

3 As soon as may be after the first day of each month the  
4 Department of Transportation shall allot to each county its  
5 share of the amount apportioned to the several counties of the  
6 State as herein provided. Each allotment to the several  
7 counties having less than 1,000,000 inhabitants shall be in  
8 proportion to the amount of motor vehicle license fees received  
9 from the residents of such counties, respectively, during the  
10 preceding calendar year. The Secretary of State shall, on or  
11 before April 15 of each year, transmit to the Department of  
12 Transportation a full and complete report showing the amount of  
13 motor vehicle license fees received from the residents of each  
14 county, respectively, during the preceding calendar year. The  
15 Department of Transportation shall, each month, use for  
16 allotment purposes the last such report received from the  
17 Secretary of State.

18 As soon as may be after the first day of each month, the  
19 Department of Transportation shall allot to the several  
20 counties their share of the amount apportioned for the use of  
21 road districts. The allotment shall be apportioned among the  
22 several counties in the State in the proportion which the total  
23 mileage of township or district roads in the respective  
24 counties bears to the total mileage of all township and  
25 district roads in the State. Funds allotted to the respective  
26 counties for the use of road districts therein shall be

1 allocated to the several road districts in the county in the  
2 proportion which the total mileage of such township or district  
3 roads in the respective road districts bears to the total  
4 mileage of all such township or district roads in the county.  
5 After July 1 of any year, no allocation shall be made for any  
6 road district unless it levied a tax for road and bridge  
7 purposes in an amount which will require the extension of such  
8 tax against the taxable property in any such road district at a  
9 rate of not less than either .08% of the value thereof, based  
10 upon the assessment for the year immediately prior to the year  
11 in which such tax was levied and as equalized by the Department  
12 of Revenue or, in DuPage County, an amount equal to or greater  
13 than \$12,000 per mile of road under the jurisdiction of the  
14 road district, whichever is less. If any road district has  
15 levied a special tax for road purposes pursuant to Sections  
16 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such  
17 tax was levied in an amount which would require extension at a  
18 rate of not less than .08% of the value of the taxable property  
19 thereof, as equalized or assessed by the Department of Revenue,  
20 or, in DuPage County, an amount equal to or greater than  
21 \$12,000 per mile of road under the jurisdiction of the road  
22 district, whichever is less, such levy shall, however, be  
23 deemed a proper compliance with this Section and shall qualify  
24 such road district for an allotment under this Section. If a  
25 township has transferred to the road and bridge fund money  
26 which, when added to the amount of any tax levy of the road

1 district would be the equivalent of a tax levy requiring  
2 extension at a rate of at least .08%, or, in DuPage County, an  
3 amount equal to or greater than \$12,000 per mile of road under  
4 the jurisdiction of the road district, whichever is less, such  
5 transfer, together with any such tax levy, shall be deemed a  
6 proper compliance with this Section and shall qualify the road  
7 district for an allotment under this Section.

8 In counties in which a property tax extension limitation is  
9 imposed under the Property Tax Extension Limitation Law, road  
10 districts may retain their entitlement to a motor fuel tax  
11 allotment if, at the time the property tax extension limitation  
12 was imposed, the road district was levying a road and bridge  
13 tax at a rate sufficient to entitle it to a motor fuel tax  
14 allotment and continues to levy the maximum allowable amount  
15 after the imposition of the property tax extension limitation.  
16 Any road district may in all circumstances retain its  
17 entitlement to a motor fuel tax allotment if it levied a road  
18 and bridge tax in an amount that will require the extension of  
19 the tax against the taxable property in the road district at a  
20 rate of not less than 0.08% of the assessed value of the  
21 property, based upon the assessment for the year immediately  
22 preceding the year in which the tax was levied and as equalized  
23 by the Department of Revenue or, in DuPage County, an amount  
24 equal to or greater than \$12,000 per mile of road under the  
25 jurisdiction of the road district, whichever is less.

26 As used in this Section the term "road district" means any

1 road district, including a county unit road district, provided  
2 for by the Illinois Highway Code; and the term "township or  
3 district road" means any road in the township and district road  
4 system as defined in the Illinois Highway Code. For the  
5 purposes of this Section, "road district" also includes park  
6 districts, forest preserve districts and conservation  
7 districts organized under Illinois law and "township or  
8 district road" also includes such roads as are maintained by  
9 park districts, forest preserve districts and conservation  
10 districts. The Department of Transportation shall determine  
11 the mileage of all township and district roads for the purposes  
12 of making allotments and allocations of motor fuel tax funds  
13 for use in road districts.

14 Payment of motor fuel tax moneys to municipalities and  
15 counties shall be made as soon as possible after the allotment  
16 is made. The treasurer of the municipality or county may invest  
17 these funds until their use is required and the interest earned  
18 by these investments shall be limited to the same uses as the  
19 principal funds.

20 (Source: P.A. 94-839, eff. 6-6-06; 95-744, eff. 7-18-08.)

21 (35 ILCS 505/13) (from Ch. 120, par. 429)

22 Sec. 13. Refund of tax paid. Any person other than a  
23 distributor or supplier, who loses motor fuel through any cause  
24 or uses motor fuel (upon which he has paid the amount required  
25 to be collected under Section 2 of this Act) for any purpose



1 other than operating a motor vehicle upon the public highways  
2 or waters, shall be reimbursed and repaid the amount so paid.

3 Any person who purchases motor fuel in Illinois and uses  
4 that motor fuel in another state and that other state imposes a  
5 tax on the use of such motor fuel shall be reimbursed and  
6 repaid the amount of Illinois tax paid under Section 2 of this  
7 Act on the motor fuel used in such other state. Reimbursement  
8 and repayment shall be made by the Department upon receipt of  
9 adequate proof of taxes directly paid to another state and the  
10 amount of motor fuel used in that state.

11 Evidence supporting the claim shall include (i) a certified  
12 copy of the tax return filed with such other state by the  
13 claimant; (ii) a copy of either the cancelled check paying the  
14 tax due on such return, or a receipt acknowledging payment of  
15 the tax due on such tax return; and (iii) such other  
16 information as the Department may reasonably require. Any  
17 person who purchases motor fuel use tax decals as required by  
18 Section 13a.4 and pays an amount of fees for such decals that  
19 exceeds the amount due shall be reimbursed and repaid the  
20 amount of the decal fees that are deemed by the department to  
21 be in excess of the amount due.

22 Claims for such reimbursement must be made to the  
23 Department of Revenue, duly verified by the claimant (or by the  
24 claimant's legal representative if the claimant has died or  
25 become a person under legal disability), upon forms prescribed  
26 by the Department. The claim must state such facts relating to

1 the purchase, importation, manufacture or production of the  
2 motor fuel by the claimant as the Department may deem  
3 necessary, and the time when, and the circumstances of its loss  
4 or the specific purpose for which it was used (as the case may  
5 be), together with such other information as the Department may  
6 reasonably require. No claim based upon idle time shall be  
7 allowed. Claims for reimbursement for overpayment of decal fees  
8 shall be made to the Department of Revenue, duly verified by  
9 the claimant (or by the claimant's legal representative if the  
10 claimant has died or become a person under legal disability),  
11 upon forms prescribed by the Department. The claim shall state  
12 facts relating to the overpayment of decal fees, together with  
13 such other information as the Department may reasonably  
14 require. Claims for reimbursement of overpayment of decal fees  
15 paid on or after January 1, 2009 must be filed not later than 1  
16 year after the date on which the fees were paid by the  
17 claimant. If it is determined that the Department should  
18 reimburse a claimant for overpayment of decal fees, the  
19 Department shall shall first apply the amount of such refund  
20 against against any tax or penalty or interest due by the  
21 claimant under Section 13a of this Act.

22 Claims for full reimbursement for taxes paid on or before  
23 December 31, 1999 must be filed not later than one year after  
24 the date on which the tax was paid by the claimant. If,  
25 however, a claim for such reimbursement otherwise meeting the  
26 requirements of this Section is filed more than one year but

1 less than 2 years after that date, the claimant shall be  
2 reimbursed at the rate of 80% of the amount to which he would  
3 have been entitled if his claim had been timely filed.

4 Claims for full reimbursement for taxes paid on or after  
5 January 1, 2000 must be filed not later than 2 years after the  
6 date on which the tax was paid by the claimant.

7 The Department may make such investigation of the  
8 correctness of the facts stated in such claims as it deems  
9 necessary. When the Department has approved any such claim, it  
10 shall pay to the claimant (or to the claimant's legal  
11 representative, as such if the claimant has died or become a  
12 person under legal disability) the reimbursement provided in  
13 this Section, out of any moneys appropriated to it for that  
14 purpose.

15 Any distributor or supplier who has paid the tax imposed by  
16 Section 2 of this Act upon motor fuel lost or used by such  
17 distributor or supplier for any purpose other than operating a  
18 motor vehicle upon the public highways or waters may file a  
19 claim for credit or refund to recover the amount so paid. Such  
20 claims shall be filed on forms prescribed by the Department.  
21 Such claims shall be made to the Department, duly verified by  
22 the claimant (or by the claimant's legal representative if the  
23 claimant has died or become a person under legal disability),  
24 upon forms prescribed by the Department. The claim shall state  
25 such facts relating to the purchase, importation, manufacture  
26 or production of the motor fuel by the claimant as the

1 Department may deem necessary and the time when the loss or  
2 nontaxable use occurred, and the circumstances of its loss or  
3 the specific purpose for which it was used (as the case may  
4 be), together with such other information as the Department may  
5 reasonably require. Claims must be filed not later than one  
6 year after the date on which the tax was paid by the claimant.

7 The Department may make such investigation of the  
8 correctness of the facts stated in such claims as it deems  
9 necessary. When the Department approves a claim, the Department  
10 shall issue a refund or credit memorandum as requested by the  
11 taxpayer, to the distributor or supplier who made the payment  
12 for which the refund or credit is being given or, if the  
13 distributor or supplier has died or become incompetent, to such  
14 distributor's or supplier's legal representative, as such. The  
15 amount of such credit memorandum shall be credited against any  
16 tax due or to become due under this Act from the distributor or  
17 supplier who made the payment for which credit has been given.

18 Any credit or refund that is allowed under this Section  
19 shall bear interest at the rate and in the manner specified in  
20 the Uniform Penalty and Interest Act.

21 In case the distributor or supplier requests and the  
22 Department determines that the claimant is entitled to a  
23 refund, such refund shall be made only from such appropriation  
24 as may be available for that purpose. If it appears unlikely  
25 that the amount appropriated would permit everyone having a  
26 claim allowed during the period covered by such appropriation

1 to elect to receive a cash refund, the Department, by rule or  
2 regulation, shall provide for the payment of refunds in  
3 hardship cases and shall define what types of cases qualify as  
4 hardship cases.

5 In any case in which there has been an erroneous refund of  
6 tax or fees payable under this Section, a notice of tax  
7 liability may be issued at any time within 3 years from the  
8 making of that refund, or within 5 years from the making of  
9 that refund if it appears that any part of the refund was  
10 induced by fraud or the misrepresentation of material fact. The  
11 amount of any proposed assessment set forth by the Department  
12 shall be limited to the amount of the erroneous refund.

13 If no tax is due and no proceeding is pending to determine  
14 whether such distributor or supplier is indebted to the  
15 Department for tax, the credit memorandum so issued may be  
16 assigned and set over by the lawful holder thereof, subject to  
17 reasonable rules of the Department, to any other licensed  
18 distributor or supplier who is subject to this Act, and the  
19 amount thereof applied by the Department against any tax due or  
20 to become due under this Act from such assignee.

21 If the payment for which the distributor's or supplier's  
22 claim is filed is held in the protest fund of the State  
23 Treasury during the pendency of the claim for credit  
24 proceedings pursuant to the order of the court in accordance  
25 with Section 2a of the State Officers and Employees Money  
26 Disposition Act and if it is determined by the Department or by

1 the final order of a reviewing court under the Administrative  
2 Review Law that the claimant is entitled to all or a part of  
3 the credit claimed, the claimant, instead of receiving a credit  
4 memorandum from the Department, shall receive a cash refund  
5 from the protest fund as provided for in Section 2a of the  
6 State Officers and Employees Money Disposition Act.

7 If any person ceases to be licensed as a distributor or  
8 supplier while still holding an unused credit memorandum issued  
9 under this Act, such person may, at his election (instead of  
10 assigning the credit memorandum to a licensed distributor or  
11 licensed supplier under this Act), surrender such unused credit  
12 memorandum to the Department and receive a refund of the amount  
13 to which such person is entitled.

14 For claims based upon taxes paid on or before December 31,  
15 2000, a claim based upon the use of undyed diesel fuel shall  
16 not be allowed except (i) if allowed under the following  
17 paragraph or (ii) for undyed diesel fuel used by a commercial  
18 vehicle, as that term is defined in Section 1-111.8 of the  
19 Illinois Vehicle Code, for any purpose other than operating the  
20 commercial vehicle upon the public highways and unlicensed  
21 commercial vehicles operating on private property. Claims  
22 shall be limited to commercial vehicles that are operated for  
23 both highway purposes and any purposes other than operating  
24 such vehicles upon the public highways.

25 For claims based upon taxes paid on or after January 1,  
26 2000, a claim based upon the use of undyed diesel fuel shall

1 not be allowed except (i) if allowed under the preceding  
2 paragraph or (ii) for claims for the following:

3 (1) Undyed diesel fuel used (i) in a manufacturing  
4 process, as defined in Section 2-45 of the Retailers'  
5 Occupation Tax Act, wherein the undyed diesel fuel becomes  
6 a component part of a product or by-product, other than  
7 fuel or motor fuel, when the use of dyed diesel fuel in  
8 that manufacturing process results in a product that is  
9 unsuitable for its intended use or (ii) for testing  
10 machinery and equipment in a manufacturing process, as  
11 defined in Section 2-45 of the Retailers' Occupation Tax  
12 Act, wherein the testing takes place on private property.

13 (2) Undyed diesel fuel used by a manufacturer on  
14 private property in the research and development, as  
15 defined in Section 1.29, of machinery or equipment intended  
16 for manufacture.

17 (3) Undyed diesel fuel used by a single unit  
18 self-propelled agricultural fertilizer implement, designed  
19 for on and off road use, equipped with flotation tires and  
20 specially adapted for the application of plant food  
21 materials or agricultural chemicals.

22 (4) Undyed diesel fuel used by a commercial motor  
23 vehicle for any purpose other than operating the commercial  
24 motor vehicle upon the public highways. Claims shall be  
25 limited to commercial motor vehicles that are operated for  
26 both highway purposes and any purposes other than operating

1 such vehicles upon the public highways.

2 (5) Undyed diesel fuel used by a unit of local  
3 government in its operation of an airport if the undyed  
4 diesel fuel is used directly in airport operations on  
5 airport property.

6 (6) Undyed diesel fuel used by refrigeration units that  
7 are permanently mounted to a semitrailer, as defined in  
8 Section 1.28 of this Law, wherein the refrigeration units  
9 have a fuel supply system dedicated solely for the  
10 operation of the refrigeration units.

11 (7) Undyed diesel fuel used by power take-off equipment  
12 as defined in Section 1.27 of this Law.

13 (8) Beginning on the effective date of this amendatory  
14 Act of the 94th General Assembly, undyed diesel fuel used  
15 by tugs and spotter equipment to shift vehicles or parcels  
16 on both private and airport property. Any claim under this  
17 item (8) may be made only by a claimant that owns tugs and  
18 spotter equipment and operates that equipment on both  
19 private and airport property. The aggregate of all credits  
20 or refunds resulting from claims filed under this item (8)  
21 by a claimant in any calendar year may not exceed \$100,000.  
22 A claim may not be made under this item (8) by the same  
23 claimant more often than once each quarter. For the  
24 purposes of this item (8), "tug" means a vehicle designed  
25 for use on airport property that shifts custom-designed  
26 containers of parcels from loading docks to aircraft, and



1 "spotter equipment" means a vehicle designed for use on  
2 both private and airport property that shifts trailers  
3 containing parcels between staging areas and loading  
4 docks.

5 Any person who has paid the tax imposed by Section 2 of  
6 this Law upon undyed diesel fuel that is unintentionally mixed  
7 with dyed diesel fuel and who owns or controls the mixture of  
8 undyed diesel fuel and dyed diesel fuel may file a claim for  
9 refund to recover the amount paid. The amount of undyed diesel  
10 fuel unintentionally mixed must equal 500 gallons or more. Any  
11 claim for refund of unintentionally mixed undyed diesel fuel  
12 and dyed diesel fuel shall be supported by documentation  
13 showing the date and location of the unintentional mixing, the  
14 number of gallons involved, the disposition of the mixed diesel  
15 fuel, and any other information that the Department may  
16 reasonably require. Any unintentional mixture of undyed diesel  
17 fuel and dyed diesel fuel shall be sold or used only for  
18 non-highway purposes.

19 The Department shall promulgate regulations establishing  
20 specific limits on the amount of undyed diesel fuel that may be  
21 claimed for refund.

22 For purposes of claims for refund, "loss" means the  
23 reduction of motor fuel resulting from fire, theft, spillage,  
24 spoilage, leakage, or any other provable cause, but does not  
25 include a reduction resulting from evaporation or shrinkage due  
26 to temperature variations.

1 (Source: P.A. 94-654, eff. 8-22-05.)

2 (35 ILCS 505/13a.4) (from Ch. 120, par. 429a4)

3 Sec. 13a.4. Except as provided in Section 13a.5 of this  
4 Act, no motor carrier shall operate in Illinois without first  
5 securing a motor fuel use tax license and decals from the  
6 Department or a motor fuel use tax license and decals issued  
7 under the International Fuel Tax Agreement by any member  
8 jurisdiction. Notwithstanding any other provision of this  
9 Section to the contrary, however, the Director of the  
10 Department of Revenue or his designee may, upon determining  
11 that a disaster exists in Illinois or in any other state,  
12 temporarily waive the licensing requirements of this Section  
13 for commercial motor vehicles that travel through Illinois, or  
14 return to Illinois from a point outside Illinois, for the  
15 purpose of assisting in disaster relief efforts. Temporary  
16 waiver of the licensing requirements of this Section shall not  
17 exceed a period of 30 days from the date the Director  
18 temporarily waives the licensing requirements of this Section.  
19 For purposes of this Section, a disaster includes flood,  
20 tornado, hurricane, fire, earthquake, or any other disaster  
21 that causes or threatens loss of life or destruction or damage  
22 to property of such a magnitude as to endanger the public  
23 health, safety, and welfare. The licensing requirements of this  
24 Section shall be temporarily waived only if the operator of the  
25 commercial motor vehicle can provide proof by manifest that the

1 commercial motor vehicle is traveling through Illinois or  
2 returning to Illinois from a point outside Illinois for  
3 purposes of assisting in disaster relief efforts. Application  
4 for such license and decals shall be made annually to the  
5 Department on forms prescribed by the Department. The  
6 application shall be under oath, and shall contain such  
7 information as the Department deems necessary. The Department,  
8 for cause, may require an applicant to post a bond on a form to  
9 be approved by and with a surety or sureties satisfactory to  
10 the Department conditioned upon such applicant paying to the  
11 State of Illinois all monies becoming due by reason of the sale  
12 or use of motor fuel by the applicant, together with all  
13 penalties and interest thereon. If a bond is required, it shall  
14 be equal to at least twice the estimated average tax liability  
15 of a quarterly return. The Department shall fix the penalty of  
16 such bond in each case taking into consideration the amount of  
17 motor fuel expected to be used by such applicant and the  
18 penalty fixed by the Department shall be such as, in its  
19 opinion, will protect the State of Illinois against failure to  
20 pay the amount hereinafter provided on motor fuel used. No  
21 person who is in default to the State for monies due under this  
22 Act for the sale, distribution or use of motor fuel shall  
23 receive such a license or decal.

24       Upon receipt of the application for license in proper form,  
25 and upon payment of any required \$100 reinstatement fee, and  
26 upon approval by the Department of the bond furnished by the

1 applicant, the Department may issue to such applicant a license  
2 which allows the operation of commercial motor vehicles in  
3 Illinois, and decals for each commercial motor vehicle  
4 operating in Illinois. Prior to January 1, 1985, motor fuel use  
5 tax licenses shall be conspicuously displayed in the cab of  
6 each commercial motor vehicle operating in Illinois. After  
7 January 1, 1986, motor fuel use tax licenses shall be carried  
8 in the cab of each commercial motor vehicle operating in  
9 Illinois.

10 The Department shall, by regulation, provide for the use of  
11 reproductions of original motor fuel use tax licenses in lieu  
12 of issuing multiple original motor fuel use tax licenses to  
13 licensees.

14 On and after January 1, 1985, external motor fuel tax  
15 decals shall be conspicuously displayed on the passenger side  
16 of each commercial motor vehicle propelled by motor fuel  
17 operating in Illinois, except buses, which may display such  
18 devices on the driver's side of the vehicle. Beginning with the  
19 effective date of this amendatory Act of 1993 or the membership  
20 of the State of Illinois in the International Fuel Tax  
21 Agreement, whichever is later, the decals issued to the  
22 licensee shall be placed on both exterior sides of the cab. In  
23 the case of transporters, manufacturers, dealers, or driveway  
24 operations, the decals need not be permanently affixed but may  
25 be temporarily displayed in a visible manner on the exterior  
26 sides of the cab. Failure to display the decals in the required

1 locations may subject the vehicle operator to the purchase of a  
2 trip permit and a citation. Such motor fuel tax decals shall be  
3 issued by the Department and remain valid for a period of 2  
4 calendar years, beginning January 1, 1985. The decals shall  
5 expire at the end of the regular 2 year issuance period, with  
6 new decals required to be displayed at that time. Beginning  
7 January 1, 1993, the motor fuel decals shall be issued by the  
8 Department and remain valid for a period of one calendar year.  
9 The decals shall expire at the end of the regular one year  
10 issuance period, with new decals required to be displayed at  
11 that time. Decals shall be no larger than 3 inches by 3 inches.  
12 Prior to January 1, 1993, a fee of \$7.50 shall be charged by  
13 the Department for each decal issued prior to and during the 2  
14 calendar years such decal is valid. Beginning January 1, 1993,  
15 a fee of \$3.75 shall be charged by the Department for each  
16 decal issued prior to and during the calendar year such decal  
17 is valid. Beginning January 1, 1994, \$3.75 shall be charged for  
18 a set of 2 decals. The Department may also prescribe procedures  
19 for the issuance of replacement decals, with a maximum fee of  
20 \$2 for each set of replacement decals issued. The transfer of  
21 decals from one vehicle to another vehicle or from one motor  
22 carrier to another motor carrier is prohibited. The fees paid  
23 for the decals issued under this Section shall be deposited in  
24 the Motor Fuel Tax Fund, and may be appropriated to the  
25 Department for administration of this Section and enforcement  
26 of the tax imposed by Section 13a of this Act.

1           To avoid duplicate reporting of mileage and payment of any  
2 tax arising therefrom under Section 13a.3 of this Act, the  
3 Department shall, by regulation, provide for the allocation  
4 between lessors and lessees of the same commercial motor  
5 vehicle or vehicles of the responsibility as a motor carrier  
6 for the reporting of mileage and the liability for tax arising  
7 under Section 13a.3 of this Act, and for registration,  
8 furnishing of bond, carrying of motor fuel use tax licenses,  
9 and display of decals under this Section, and for all other  
10 duties imposed upon motor carriers by this Act.

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

12           (35 ILCS 505/13a.5) (from Ch. 120, par. 429a5)

13           Sec. 13a.5. As to a commercial motor vehicle operated in  
14 Illinois in the course of interstate traffic by a motor carrier  
15 not holding a motor fuel use tax license issued under this Act,  
16 a single trip permit authorizing operation of such commercial  
17 motor vehicle for a single trip into the state of Illinois,  
18 through the State of Illinois, or from a point on the border of  
19 this State to a point within and return to the border may be  
20 issued by the Department or its agents after proper  
21 application. The fee for each single trip permit shall be \$20  
22 and such single trip permit shall be valid for a period of 72  
23 hours. This fee shall be in lieu of the tax required by Section  
24 13a of this Act, all reports required by Section 13a.3 of this  
25 Act, and the registration, decal display and furnishing of bond

1 required by Section 13a.4 of this Act. Notwithstanding any  
2 other provision of this Section to the contrary, however, the  
3 Director of the Department of Revenue or his designee may, upon  
4 determining that a disaster exists in Illinois or in any other  
5 state, temporarily waive the permit provisions of this Section  
6 for commercial motor vehicles that travel through Illinois, or  
7 return to Illinois from a point outside Illinois, for the  
8 purpose of assisting in disaster relief efforts. Temporary  
9 waiver of the permit provisions of this Section shall not  
10 exceed a period of 30 days from the date the Director waives  
11 the permit provisions of this Section. For purposes of this  
12 Section, a disaster includes flood, tornado, hurricane, fire,  
13 earthquake, or any other disaster that causes or threatens loss  
14 of life or destruction or damage to property of such a  
15 magnitude as to endanger the public health, safety, and  
16 welfare. The permit provisions of this Section shall be  
17 temporarily waived only if the operator of the commercial motor  
18 vehicle can provide proof by manifest that the commercial motor  
19 vehicle is traveling through Illinois or returning to Illinois  
20 from a point outside Illinois for purposes of assisting in  
21 disaster relief efforts. Rules or regulations promulgated by  
22 the Department under this Section shall provide for reasonable  
23 and proper limitations and restrictions governing application  
24 for and issuance and use of, single trip permits, so as to  
25 preclude evasion of the license requirement in Section 13a.4.

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

1 (35 ILCS 505/17a new)

2 Sec. 17a. All returns, applications, and other forms  
3 required by this Act must be in the form required by the  
4 Department. The Department is authorized to adopt rules to  
5 require the electronic payment of tax or fees under this Act,  
6 and the electronic filing of returns, applications or other  
7 forms required by this Act.

8 Section 30. The Uniform Penalty and Interest Act is amended  
9 by changing Section 3-3 as follows:

10 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

11 Sec. 3-3. Penalty for failure to file or pay.

12 (a) This subsection (a) is applicable before January 1,  
13 1996. A penalty of 5% of the tax required to be shown due on a  
14 return shall be imposed for failure to file the tax return on  
15 or before the due date prescribed for filing determined with  
16 regard for any extension of time for filing (penalty for late  
17 filing or nonfiling). If any unprocessable return is corrected  
18 and filed within 21 days after notice by the Department, the  
19 late filing or nonfiling penalty shall not apply. If a penalty  
20 for late filing or nonfiling is imposed in addition to a  
21 penalty for late payment, the total penalty due shall be the  
22 sum of the late filing penalty and the applicable late payment  
23 penalty. Beginning on the effective date of this amendatory Act



1 of 1995, in the case of any type of tax return required to be  
2 filed more frequently than annually, when the failure to file  
3 the tax return on or before the date prescribed for filing  
4 (including any extensions) is shown to be nonfraudulent and has  
5 not occurred in the 2 years immediately preceding the failure  
6 to file on the prescribed due date, the penalty imposed by  
7 Section 3-3(a) shall be abated.

8 (a-5) This subsection (a-5) is applicable to returns due on  
9 and after January 1, 1996 and on or before December 31, 2000. A  
10 penalty equal to 2% of the tax required to be shown due on a  
11 return, up to a maximum amount of \$250, determined without  
12 regard to any part of the tax that is paid on time or by any  
13 credit that was properly allowable on the date the return was  
14 required to be filed, shall be imposed for failure to file the  
15 tax return on or before the due date prescribed for filing  
16 determined with regard for any extension of time for filing.  
17 However, if any return is not filed within 30 days after notice  
18 of nonfiling mailed by the Department to the last known address  
19 of the taxpayer contained in Department records, an additional  
20 penalty amount shall be imposed equal to the greater of \$250 or  
21 2% of the tax shown on the return. However, the additional  
22 penalty amount may not exceed \$5,000 and is determined without  
23 regard to any part of the tax that is paid on time or by any  
24 credit that was properly allowable on the date the return was  
25 required to be filed (penalty for late filing or nonfiling). If  
26 any unprocessable return is corrected and filed within 30 days

1 after notice by the Department, the late filing or nonfiling  
2 penalty shall not apply. If a penalty for late filing or  
3 nonfiling is imposed in addition to a penalty for late payment,  
4 the total penalty due shall be the sum of the late filing  
5 penalty and the applicable late payment penalty. In the case of  
6 any type of tax return required to be filed more frequently  
7 than annually, when the failure to file the tax return on or  
8 before the date prescribed for filing (including any  
9 extensions) is shown to be nonfraudulent and has not occurred  
10 in the 2 years immediately preceding the failure to file on the  
11 prescribed due date, the penalty imposed by Section 3-3(a-5)  
12 shall be abated.

13 (a-10) This subsection (a-10) is applicable to returns due  
14 on and after January 1, 2001. A penalty equal to 2% of the tax  
15 required to be shown due on a return, up to a maximum amount of  
16 \$250, reduced by any tax that is paid on time or by any credit  
17 that was properly allowable on the date the return was required  
18 to be filed, shall be imposed for failure to file the tax  
19 return on or before the due date prescribed for filing  
20 determined with regard for any extension of time for filing.  
21 However, if any return is not filed within 30 days after notice  
22 of nonfiling mailed by the Department to the last known address  
23 of the taxpayer contained in Department records, an additional  
24 penalty amount shall be imposed equal to the greater of \$250 or  
25 2% of the tax shown on the return. However, the additional  
26 penalty amount may not exceed \$5,000 and is determined without

1 regard to any part of the tax that is paid on time or by any  
2 credit that was properly allowable on the date the return was  
3 required to be filed (penalty for late filing or nonfiling). If  
4 any unprocessable return is corrected and filed within 30 days  
5 after notice by the Department, the late filing or nonfiling  
6 penalty shall not apply. If a penalty for late filing or  
7 nonfiling is imposed in addition to a penalty for late payment,  
8 the total penalty due shall be the sum of the late filing  
9 penalty and the applicable late payment penalty. In the case of  
10 any type of tax return required to be filed more frequently  
11 than annually, when the failure to file the tax return on or  
12 before the date prescribed for filing (including any  
13 extensions) is shown to be nonfraudulent and has not occurred  
14 in the 2 years immediately preceding the failure to file on the  
15 prescribed due date, the penalty imposed by Section 3-3(a-10)  
16 shall be abated.

17 (b) This subsection is applicable before January 1, 1998. A  
18 penalty of 15% of the tax shown on the return or the tax  
19 required to be shown due on the return shall be imposed for  
20 failure to pay:

21 (1) the tax shown due on the return on or before the  
22 due date prescribed for payment of that tax, an amount of  
23 underpayment of estimated tax, or an amount that is  
24 reported in an amended return other than an amended return  
25 timely filed as required by subsection (b) of Section 506  
26 of the Illinois Income Tax Act (penalty for late payment or

1 nonpayment of admitted liability); or

2 (2) the full amount of any tax required to be shown due  
3 on a return and which is not shown (penalty for late  
4 payment or nonpayment of additional liability), within 30  
5 days after a notice of arithmetic error, notice and demand,  
6 or a final assessment is issued by the Department. In the  
7 case of a final assessment arising following a protest and  
8 hearing, the 30-day period shall not begin until all  
9 proceedings in court for review of the final assessment  
10 have terminated or the period for obtaining a review has  
11 expired without proceedings for a review having been  
12 instituted. In the case of a notice of tax liability that  
13 becomes a final assessment without a protest and hearing,  
14 the penalty provided in this paragraph (2) shall be imposed  
15 at the expiration of the period provided for the filing of  
16 a protest.

17 (b-5) This subsection is applicable to returns due on and  
18 after January 1, 1998 and on or before December 31, 2000. A  
19 penalty of 20% of the tax shown on the return or the tax  
20 required to be shown due on the return shall be imposed for  
21 failure to pay:

22 (1) the tax shown due on the return on or before the  
23 due date prescribed for payment of that tax, an amount of  
24 underpayment of estimated tax, or an amount that is  
25 reported in an amended return other than an amended return  
26 timely filed as required by subsection (b) of Section 506

1 of the Illinois Income Tax Act (penalty for late payment or  
2 nonpayment of admitted liability); or

3 (2) the full amount of any tax required to be shown due  
4 on a return and which is not shown (penalty for late  
5 payment or nonpayment of additional liability), within 30  
6 days after a notice of arithmetic error, notice and demand,  
7 or a final assessment is issued by the Department. In the  
8 case of a final assessment arising following a protest and  
9 hearing, the 30-day period shall not begin until all  
10 proceedings in court for review of the final assessment  
11 have terminated or the period for obtaining a review has  
12 expired without proceedings for a review having been  
13 instituted. In the case of a notice of tax liability that  
14 becomes a final assessment without a protest and hearing,  
15 the penalty provided in this paragraph (2) shall be imposed  
16 at the expiration of the period provided for the filing of  
17 a protest.

18 (b-10) This subsection (b-10) is applicable to returns due  
19 on and after January 1, 2001 and on or before December 31,  
20 2003. A penalty shall be imposed for failure to pay:

21 (1) the tax shown due on a return on or before the due  
22 date prescribed for payment of that tax, an amount of  
23 underpayment of estimated tax, or an amount that is  
24 reported in an amended return other than an amended return  
25 timely filed as required by subsection (b) of Section 506  
26 of the Illinois Income Tax Act (penalty for late payment or

1 nonpayment of admitted liability). The amount of penalty  
2 imposed under this subsection (b-10)(1) shall be 2% of any  
3 amount that is paid no later than 30 days after the due  
4 date, 5% of any amount that is paid later than 30 days  
5 after the due date and not later than 90 days after the due  
6 date, 10% of any amount that is paid later than 90 days  
7 after the due date and not later than 180 days after the  
8 due date, and 15% of any amount that is paid later than 180  
9 days after the due date. If notice and demand is made for  
10 the payment of any amount of tax due and if the amount due  
11 is paid within 30 days after the date of the notice and  
12 demand, then the penalty for late payment or nonpayment of  
13 admitted liability under this subsection (b-10)(1) on the  
14 amount so paid shall not accrue for the period after the  
15 date of the notice and demand.

16 (2) the full amount of any tax required to be shown due  
17 on a return and that is not shown (penalty for late payment  
18 or nonpayment of additional liability), within 30 days  
19 after a notice of arithmetic error, notice and demand, or a  
20 final assessment is issued by the Department. In the case  
21 of a final assessment arising following a protest and  
22 hearing, the 30-day period shall not begin until all  
23 proceedings in court for review of the final assessment  
24 have terminated or the period for obtaining a review has  
25 expired without proceedings for a review having been  
26 instituted. The amount of penalty imposed under this

1 subsection (b-10) (2) shall be 20% of any amount that is not  
2 paid within the 30-day period. In the case of a notice of  
3 tax liability that becomes a final assessment without a  
4 protest and hearing, the penalty provided in this  
5 subsection (b-10) (2) shall be imposed at the expiration of  
6 the period provided for the filing of a protest.

7 (b-15) This subsection (b-15) is applicable to returns due  
8 on and after January 1, 2004 and on or before December 31,  
9 2004. A penalty shall be imposed for failure to pay the tax  
10 shown due or required to be shown due on a return on or before  
11 the due date prescribed for payment of that tax, an amount of  
12 underpayment of estimated tax, or an amount that is reported in  
13 an amended return other than an amended return timely filed as  
14 required by subsection (b) of Section 506 of the Illinois  
15 Income Tax Act (penalty for late payment or nonpayment of  
16 admitted liability). The amount of penalty imposed under this  
17 subsection (b-15) ~~(b-15)(1)~~ shall be 2% of any amount that is  
18 paid no later than 30 days after the due date, 10% of any  
19 amount that is paid later than 30 days after the due date and  
20 not later than 90 days after the due date, 15% of any amount  
21 that is paid later than 90 days after the due date and not  
22 later than 180 days after the due date, and 20% of any amount  
23 that is paid later than 180 days after the due date. If notice  
24 and demand is made for the payment of any amount of tax due and  
25 if the amount due is paid within 30 days after the date of this  
26 notice and demand, then the penalty for late payment or

1 nonpayment of admitted liability under this subsection (b-15)  
2 ~~(b-15)(1)~~ on the amount so paid shall not accrue for the period  
3 after the date of the notice and demand.

4 (b-20) This subsection (b-20) is applicable to returns due  
5 on and after January 1, 2005.

6 (1) A penalty shall be imposed for failure to pay,  
7 prior to the due date for payment, any amount of tax the  
8 payment of which is required to be made prior to the filing  
9 of a return or without a return (penalty for late payment  
10 or nonpayment of estimated or accelerated tax). The amount  
11 of penalty imposed under this paragraph (1) shall be 2% of  
12 any amount that is paid no later than 30 days after the due  
13 date and 10% of any amount that is paid later than 30 days  
14 after the due date.

15 (2) A penalty shall be imposed for failure to pay the  
16 tax shown due or required to be shown due on a return on or  
17 before the due date prescribed for payment of that tax or  
18 an amount that is reported in an amended return other than  
19 an amended return timely filed as required by subsection  
20 (b) of Section 506 of the Illinois Income Tax Act (penalty  
21 for late payment or nonpayment of tax). The amount of  
22 penalty imposed under this paragraph (2) shall be 2% of any  
23 amount that is paid no later than 30 days after the due  
24 date, 10% of any amount that is paid later than 30 days  
25 after the due date and prior to the date the Department has  
26 initiated an audit or investigation of the taxpayer, and



1           20% of any amount that is paid after the date the  
2           Department has initiated an audit or investigation of the  
3           taxpayer; provided that the penalty shall be reduced to 15%  
4           if the entire amount due is paid not later than 30 days  
5           after the Department has provided the taxpayer with an  
6           amended return (following completion of an occupation,  
7           use, or excise tax audit) or a form for waiver of  
8           restrictions on assessment (following completion of an  
9           income tax audit); provided further that the reduction to  
10          15% shall be rescinded if the taxpayer makes any claim for  
11          refund or credit of the tax, penalties, or interest  
12          determined to be due upon audit, except in the case of a  
13          claim filed pursuant to subsection (b) of Section 506 of  
14          the Illinois Income Tax Act or to claim a carryover of a  
15          loss or credit, the availability of which was not  
16          determined in the audit. For purposes of this paragraph  
17          (2), any overpayment reported on an original return that  
18          has been allowed as a refund or credit to the taxpayer  
19          shall be deemed to have not been paid on or before the due  
20          date for payment and any amount paid under protest pursuant  
21          to the provisions of the State Officers and Employees Money  
22          Disposition Act shall be deemed to have been paid after the  
23          Department has initiated an audit and more than 30 days  
24          after the Department has provided the taxpayer with an  
25          amended return (following completion of an occupation,  
26          use, or excise tax audit) or a form for waiver of

1 restrictions on assessment (following completion of an  
2 income tax audit).

3 (3) The penalty imposed under this subsection (b-20)  
4 shall be deemed assessed at the time the tax upon which the  
5 penalty is computed is assessed, except that, if the  
6 reduction of the penalty imposed under paragraph (2) of  
7 this subsection (b-20) to 15% is rescinded because a claim  
8 for refund or credit has been filed, the increase in  
9 penalty shall be deemed assessed at the time the claim for  
10 refund or credit is filed.

11 (c) For purposes of the late payment penalties, the basis  
12 of the penalty shall be the tax shown or required to be shown  
13 on a return, whichever is applicable, reduced by any part of  
14 the tax which is paid on time and by any credit which was  
15 properly allowable on the date the return was required to be  
16 filed.

17 (d) A penalty shall be applied to the tax required to be  
18 shown even if that amount is less than the tax shown on the  
19 return.

20 (e) This subsection (e) is applicable to returns due before  
21 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)  
22 penalty and a subsection (b)(2) or (b-5)(2) penalty are  
23 assessed against the same return, the subsection (b)(2) or  
24 (b-5)(2) penalty shall be assessed against only the additional  
25 tax found to be due.

26 (e-5) This subsection (e-5) is applicable to returns due on

1 and after January 1, 2001. If both a subsection (b-10)(1)  
2 penalty and a subsection (b-10)(2) penalty are assessed against  
3 the same return, the subsection (b-10)(2) penalty shall be  
4 assessed against only the additional tax found to be due.

5 (f) If the taxpayer has failed to file the return, the  
6 Department shall determine the correct tax according to its  
7 best judgment and information, which amount shall be prima  
8 facie evidence of the correctness of the tax due.

9 (g) The time within which to file a return or pay an amount  
10 of tax due without imposition of a penalty does not extend the  
11 time within which to file a protest to a notice of tax  
12 liability or a notice of deficiency.

13 (h) No return shall be determined to be unprocessable  
14 because of the omission of any information requested on the  
15 return pursuant to Section 2505-575 of the Department of  
16 Revenue Law (20 ILCS 2505/2505-575).

17 (i) If a taxpayer has a tax liability that is eligible for  
18 amnesty under the Tax Delinquency Amnesty Act and the taxpayer  
19 fails to satisfy the tax liability during the amnesty period  
20 provided for in that Act, then the penalty imposed by the  
21 Department under this Section shall be imposed in an amount  
22 that is 200% of the amount that would otherwise be imposed  
23 under this Section.

24 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,  
25 eff. 6-20-03; 93-1068, eff. 1-15-05.)

1 Section 35. The Counties Code is amended by changing  
2 Sections 5-1006, 5-1006.5, 5-1006.7, and 5-1007 as follows:

3 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

4 Sec. 5-1006. Home Rule County Retailers' Occupation Tax  
5 Law. Any county that is a home rule unit may impose a tax upon  
6 all persons engaged in the business of selling tangible  
7 personal property, other than an item of tangible personal  
8 property titled or registered with an agency of this State's  
9 government, at retail in the county on the gross receipts from  
10 such sales made in the course of their business. If imposed,  
11 this tax shall only be imposed in 1/4% increments. On and after  
12 September 1, 1991, this additional tax may not be imposed on  
13 the sales of food for human consumption which is to be consumed  
14 off the premises where it is sold (other than alcoholic  
15 beverages, soft drinks and food which has been prepared for  
16 immediate consumption) and prescription and nonprescription  
17 medicines, drugs, medical appliances, modifications to a motor  
18 vehicle for the purpose of rendering it usable by a disabled  
19 person, and insulin, urine testing materials, syringes and  
20 needles used by diabetics. The tax imposed by a home rule  
21 county pursuant to this Section and all civil penalties that  
22 may be assessed as an incident thereof shall be collected and  
23 enforced by the State Department of Revenue. The certificate of  
24 registration that is issued by the Department to a retailer  
25 under the Retailers' Occupation Tax Act shall permit the

1 retailer to engage in a business that is taxable under any  
2 ordinance or resolution enacted pursuant to this Section  
3 without registering separately with the Department under such  
4 ordinance or resolution or under this Section. The Department  
5 shall have full power to administer and enforce this Section;  
6 to collect all taxes and penalties due hereunder; to dispose of  
7 taxes and penalties so collected in the manner hereinafter  
8 provided; and to determine all rights to credit memoranda  
9 arising on account of the erroneous payment of tax or penalty  
10 hereunder. In the administration of, and compliance with, this  
11 Section, the Department and persons who are subject to this  
12 Section shall have the same rights, remedies, privileges,  
13 immunities, powers and duties, and be subject to the same  
14 conditions, restrictions, limitations, penalties and  
15 definitions of terms, and employ the same modes of procedure,  
16 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,  
17 1k, 1m, 1n, 2 through 2-65 (in respect to all provisions  
18 therein other than the State rate of tax), 4, 5, 5a, 5b, 5c,  
19 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,  
20 11, 12 and 13 of the Retailers' Occupation Tax Act and Section  
21 3-7 of the Uniform Penalty and Interest Act, as fully as if  
22 those provisions were set forth herein.

23 No tax may be imposed by a home rule county pursuant to  
24 this Section unless the county also imposes a tax at the same  
25 rate pursuant to Section 5-1007.

26 Persons subject to any tax imposed pursuant to the

1 authority granted in this Section may reimburse themselves for  
2 their seller's tax liability hereunder by separately stating  
3 such tax as an additional charge, which charge may be stated in  
4 combination, in a single amount, with State tax which sellers  
5 are required to collect under the Use Tax Act, pursuant to such  
6 bracket schedules as the Department may prescribe.

7 Whenever the Department determines that a refund should be  
8 made under this Section to a claimant instead of issuing a  
9 credit memorandum, the Department shall notify the State  
10 Comptroller, who shall cause the order to be drawn for the  
11 amount specified and to the person named in the notification  
12 from the Department. The refund shall be paid by the State  
13 Treasurer out of the home rule county retailers' occupation tax  
14 fund.

15 The Department shall forthwith pay over to the State  
16 Treasurer, ex officio, as trustee, all taxes and penalties  
17 collected hereunder. On or before the 25th day of each calendar  
18 month, the Department shall prepare and certify to the  
19 Comptroller the disbursement of stated sums of money to named  
20 counties, the counties to be those from which retailers have  
21 paid taxes or penalties hereunder to the Department during the  
22 second preceding calendar month. The amount to be paid to each  
23 county shall be the amount (not including credit memoranda)  
24 collected hereunder during the second preceding calendar month  
25 by the Department plus an amount the Department determines is  
26 necessary to offset any amounts that were erroneously paid to a

1 different taxing body, and not including an amount equal to the  
2 amount of refunds made during the second preceding calendar  
3 month by the Department on behalf of such county, and not  
4 including any amount which the Department determines is  
5 necessary to offset any amounts which were payable to a  
6 different taxing body but were erroneously paid to the county.  
7 Within 10 days after receipt, by the Comptroller, of the  
8 disbursement certification to the counties provided for in this  
9 Section to be given to the Comptroller by the Department, the  
10 Comptroller shall cause the orders to be drawn for the  
11 respective amounts in accordance with the directions contained  
12 in the certification.

13 In addition to the disbursement required by the preceding  
14 paragraph, an allocation shall be made in March of each year to  
15 each county that received more than \$500,000 in disbursements  
16 under the preceding paragraph in the preceding calendar year.  
17 The allocation shall be in an amount equal to the average  
18 monthly distribution made to each such county under the  
19 preceding paragraph during the preceding calendar year  
20 (excluding the 2 months of highest receipts). The distribution  
21 made in March of each year subsequent to the year in which an  
22 allocation was made pursuant to this paragraph and the  
23 preceding paragraph shall be reduced by the amount allocated  
24 and disbursed under this paragraph in the preceding calendar  
25 year. The Department shall prepare and certify to the  
26 Comptroller for disbursement the allocations made in

1 accordance with this paragraph.

2 For the purpose of determining the local governmental unit  
3 whose tax is applicable, a retail sale by a producer of coal or  
4 other mineral mined in Illinois is a sale at retail at the  
5 place where the coal or other mineral mined in Illinois is  
6 extracted from the earth. This paragraph does not apply to coal  
7 or other mineral when it is delivered or shipped by the seller  
8 to the purchaser at a point outside Illinois so that the sale  
9 is exempt under the United States Constitution as a sale in  
10 interstate or foreign commerce.

11 Nothing in this Section shall be construed to authorize a  
12 county to impose a tax upon the privilege of engaging in any  
13 business which under the Constitution of the United States may  
14 not be made the subject of taxation by this State.

15 An ordinance or resolution imposing or discontinuing a tax  
16 hereunder or effecting a change in the rate thereof shall be  
17 adopted and a certified copy thereof filed with the Department  
18 on or before the first day of June, whereupon the Department  
19 shall proceed to administer and enforce this Section as of the  
20 first day of September next following such adoption and filing.  
21 Beginning January 1, 1992, an ordinance or resolution imposing  
22 or discontinuing the tax hereunder or effecting a change in the  
23 rate thereof shall be adopted and a certified copy thereof  
24 filed with the Department on or before the first day of July,  
25 whereupon the Department shall proceed to administer and  
26 enforce this Section as of the first day of October next



1 following such adoption and filing. Beginning January 1, 1993,  
2 an ordinance or resolution imposing or discontinuing the tax  
3 hereunder or effecting a change in the rate thereof shall be  
4 adopted and a certified copy thereof filed with the Department  
5 on or before the first day of October, whereupon the Department  
6 shall proceed to administer and enforce this Section as of the  
7 first day of January next following such adoption and filing.  
8 Beginning April 1, 1998, an ordinance or resolution imposing or  
9 discontinuing the tax hereunder or effecting a change in the  
10 rate thereof shall either (i) be adopted and a certified copy  
11 thereof filed with the Department on or before the first day of  
12 April, whereupon the Department shall proceed to administer and  
13 enforce this Section as of the first day of July next following  
14 the adoption and filing; or (ii) be adopted and a certified  
15 copy thereof filed with the Department on or before the first  
16 day of October, whereupon the Department shall proceed to  
17 administer and enforce this Section as of the first day of  
18 January next following the adoption and filing.

19 When certifying the amount of a monthly disbursement to a  
20 county under this Section, the Department shall increase or  
21 decrease such amount by an amount necessary to offset any  
22 misallocation of previous disbursements. The offset amount  
23 shall be the amount erroneously disbursed within the previous 6  
24 months from the time a misallocation is discovered.

25 This Section shall be known and may be cited as the Home  
26 Rule County Retailers' Occupation Tax Law.

1 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

2 (55 ILCS 5/5-1006.5)

3 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
4 For Public Safety, Public Facilities, or Transportation.

5 (a) The county board of any county may impose a tax upon  
6 all persons engaged in the business of selling tangible  
7 personal property, other than personal property titled or  
8 registered with an agency of this State's government, at retail  
9 in the county on the gross receipts from the sales made in the  
10 course of business to provide revenue to be used exclusively  
11 for public safety, public facility, or transportation purposes  
12 in that county, if a proposition for the tax has been submitted  
13 to the electors of that county and approved by a majority of  
14 those voting on the question. If imposed, this tax shall be  
15 imposed only in one-quarter percent increments. By resolution,  
16 the county board may order the proposition to be submitted at  
17 any election. If the tax is imposed for transportation purposes  
18 for expenditures for public highways or as authorized under the  
19 Illinois Highway Code, the county board must publish notice of  
20 the existence of its long-range highway transportation plan as  
21 required or described in Section 5-301 of the Illinois Highway  
22 Code and must make the plan publicly available prior to  
23 approval of the ordinance or resolution imposing the tax. If  
24 the tax is imposed for transportation purposes for expenditures  
25 for passenger rail transportation, the county board must

1 publish notice of the existence of its long-range passenger  
2 rail transportation plan and must make the plan publicly  
3 available prior to approval of the ordinance or resolution  
4 imposing the tax. The county clerk shall certify the question  
5 to the proper election authority, who shall submit the  
6 proposition at an election in accordance with the general  
7 election law.

8 (1) The proposition for public safety purposes shall be  
9 in substantially the following form:

10 "To pay for public safety purposes, shall (name of  
11 county) be authorized to impose an increase on its share of  
12 local sales taxes by (insert rate)?"

13 As additional information on the ballot below the  
14 question shall appear the following:

15 "This would mean that a consumer would pay an  
16 additional (insert amount) in sales tax for every \$100 of  
17 tangible personal property bought at retail."

18 The county board may also opt to establish a sunset  
19 provision at which time the additional sales tax would  
20 cease being collected, if not terminated earlier by a vote  
21 of the county board. If the county board votes to include a  
22 sunset provision, the proposition for public safety  
23 purposes shall be in substantially the following form:

24 "To pay for public safety purposes, shall (name of  
25 county) be authorized to impose an increase on its share of  
26 local sales taxes by (insert rate) for a period not to

1 exceed (insert number of years)?"

2 As additional information on the ballot below the  
3 question shall appear the following:

4 "This would mean that a consumer would pay an  
5 additional (insert amount) in sales tax for every \$100 of  
6 tangible personal property bought at retail. If imposed,  
7 the additional tax would cease being collected at the end  
8 of (insert number of years), if not terminated earlier by a  
9 vote of the county board."

10 For the purposes of the paragraph, "public safety  
11 purposes" means crime prevention, detention, fire  
12 fighting, police, medical, ambulance, or other emergency  
13 services.

14 Votes shall be recorded as "Yes" or "No".

15 (2) The proposition for transportation purposes shall  
16 be in substantially the following form:

17 "To pay for improvements to roads and other  
18 transportation purposes, shall (name of county) be  
19 authorized to impose an increase on its share of local  
20 sales taxes by (insert rate)?"

21 As additional information on the ballot below the  
22 question shall appear the following:

23 "This would mean that a consumer would pay an  
24 additional (insert amount) in sales tax for every \$100 of  
25 tangible personal property bought at retail."

26 The county board may also opt to establish a sunset

1 provision at which time the additional sales tax would  
2 cease being collected, if not terminated earlier by a vote  
3 of the county board. If the county board votes to include a  
4 sunset provision, the proposition for transportation  
5 purposes shall be in substantially the following form:

6 "To pay for road improvements and other transportation  
7 purposes, shall (name of county) be authorized to impose an  
8 increase on its share of local sales taxes by (insert rate)  
9 for a period not to exceed (insert number of years)?"

10 As additional information on the ballot below the  
11 question shall appear the following:

12 "This would mean that a consumer would pay an  
13 additional (insert amount) in sales tax for every \$100 of  
14 tangible personal property bought at retail. If imposed,  
15 the additional tax would cease being collected at the end  
16 of (insert number of years), if not terminated earlier by a  
17 vote of the county board."

18 For the purposes of this paragraph, transportation  
19 purposes means construction, maintenance, operation, and  
20 improvement of public highways, any other purpose for which  
21 a county may expend funds under the Illinois Highway Code,  
22 and passenger rail transportation.

23 The votes shall be recorded as "Yes" or "No".

24 (3) The proposition for public facility purposes shall  
25 be in substantially the following form:

26 "To pay for public facility purposes, shall (name of

1 county) be authorized to impose an increase on its share of  
2 local sales taxes by (insert rate)?"

3 As additional information on the ballot below the  
4 question shall appear the following:

5 "This would mean that a consumer would pay an  
6 additional (insert amount) in sales tax for every \$100 of  
7 tangible personal property bought at retail."

8 The county board may also opt to establish a sunset  
9 provision at which time the additional sales tax would  
10 cease being collected, if not terminated earlier by a vote  
11 of the county board. If the county board votes to include a  
12 sunset provision, the proposition for public facility  
13 purposes shall be in substantially the following form:

14 "To pay for public facility purposes, shall (name of  
15 county) be authorized to impose an increase on its share of  
16 local sales taxes by (insert rate) for a period not to  
17 exceed (insert number of years)?"

18 As additional information on the ballot below the  
19 question shall appear the following:

20 "This would mean that a consumer would pay an  
21 additional (insert amount) in sales tax for every \$100 of  
22 tangible personal property bought at retail. If imposed,  
23 the additional tax would cease being collected at the end  
24 of (insert number of years), if not terminated earlier by a  
25 vote of the county board."

26 For purposes of this Section, "public facilities

1 purposes" means the acquisition, development,  
2 construction, reconstruction, rehabilitation, improvement,  
3 financing, architectural planning, and installation of  
4 capital facilities consisting of buildings, structures,  
5 and durable equipment and for the acquisition and  
6 improvement of real property and interest in real property  
7 required, or expected to be required, in connection with  
8 the public facilities, for use by the county for the  
9 furnishing of governmental services to its citizens,  
10 including but not limited to museums and nursing homes.

11 The votes shall be recorded as "Yes" or "No".

12 If a majority of the electors voting on the proposition  
13 vote in favor of it, the county may impose the tax. A county  
14 may not submit more than one proposition authorized by this  
15 Section to the electors at any one time.

16 This additional tax may not be imposed on the sales of food  
17 for human consumption that is to be consumed off the premises  
18 where it is sold (other than alcoholic beverages, soft drinks,  
19 and food which has been prepared for immediate consumption) and  
20 prescription and non-prescription medicines, drugs, medical  
21 appliances, modifications to a motor vehicle for the purpose of  
22 rendering it usable by a disabled person, and insulin, urine  
23 testing materials, syringes, and needles used by diabetics. The  
24 tax imposed by a county under this Section and all civil  
25 penalties that may be assessed as an incident of the tax shall  
26 be collected and enforced by the Illinois Department of Revenue

1 and deposited into a special fund created for that purpose. The  
2 certificate of registration that is issued by the Department to  
3 a retailer under the Retailers' Occupation Tax Act shall permit  
4 the retailer to engage in a business that is taxable without  
5 registering separately with the Department under an ordinance  
6 or resolution under this Section. The Department has full power  
7 to administer and enforce this Section, to collect all taxes  
8 and penalties due under this Section, to dispose of taxes and  
9 penalties so collected in the manner provided in this Section,  
10 and to determine all rights to credit memoranda arising on  
11 account of the erroneous payment of a tax or penalty under this  
12 Section. In the administration of and compliance with this  
13 Section, the Department and persons who are subject to this  
14 Section shall (i) have the same rights, remedies, privileges,  
15 immunities, powers, and duties, (ii) be subject to the same  
16 conditions, restrictions, limitations, penalties, and  
17 definitions of terms, and (iii) employ the same modes of  
18 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,  
19 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to all  
20 provisions contained in those Sections other than the State  
21 rate of tax), 2a, 2b, 2c, 3 (except provisions relating to  
22 transaction returns and quarter monthly payments), 4, 5, 5a,  
23 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
24 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act  
25 and Section 3-7 of the Uniform Penalty and Interest Act as if  
26 those provisions were set forth in this Section.



1           Persons subject to any tax imposed under the authority  
2 granted in this Section may reimburse themselves for their  
3 sellers' tax liability by separately stating the tax as an  
4 additional charge, which charge may be stated in combination,  
5 in a single amount, with State tax which sellers are required  
6 to collect under the Use Tax Act, pursuant to such bracketed  
7 schedules as the Department may prescribe.

8           Whenever the Department determines that a refund should be  
9 made under this Section to a claimant instead of issuing a  
10 credit memorandum, the Department shall notify the State  
11 Comptroller, who shall cause the order to be drawn for the  
12 amount specified and to the person named in the notification  
13 from the Department. The refund shall be paid by the State  
14 Treasurer out of the County Public Safety or Transportation  
15 Retailers' Occupation Tax Fund.

16           (b) If a tax has been imposed under subsection (a), a  
17 service occupation tax shall also be imposed at the same rate  
18 upon all persons engaged, in the county, in the business of  
19 making sales of service, who, as an incident to making those  
20 sales of service, transfer tangible personal property within  
21 the county as an incident to a sale of service. This tax may  
22 not be imposed on sales of food for human consumption that is  
23 to be consumed off the premises where it is sold (other than  
24 alcoholic beverages, soft drinks, and food prepared for  
25 immediate consumption) and prescription and non-prescription  
26 medicines, drugs, medical appliances, modifications to a motor

1 vehicle for the purpose of rendering it usable by a disabled  
2 person, and insulin, urine testing materials, syringes, and  
3 needles used by diabetics. The tax imposed under this  
4 subsection and all civil penalties that may be assessed as an  
5 incident thereof shall be collected and enforced by the  
6 Department of Revenue. The Department has full power to  
7 administer and enforce this subsection; to collect all taxes  
8 and penalties due hereunder; to dispose of taxes and penalties  
9 so collected in the manner hereinafter provided; and to  
10 determine all rights to credit memoranda arising on account of  
11 the erroneous payment of tax or penalty hereunder. In the  
12 administration of, and compliance with this subsection, the  
13 Department and persons who are subject to this paragraph shall  
14 (i) have the same rights, remedies, privileges, immunities,  
15 powers, and duties, (ii) be subject to the same conditions,  
16 restrictions, limitations, penalties, exclusions, exemptions,  
17 and definitions of terms, and (iii) employ the same modes of  
18 procedure as are prescribed in Sections 2 (except that the  
19 reference to State in the definition of supplier maintaining a  
20 place of business in this State shall mean the county), 2a, 2b,  
21 2c, 3 through 3-50 (in respect to all provisions therein other  
22 than the State rate of tax), 4 (except that the reference to  
23 the State shall be to the county), 5, 7, 8 (except that the  
24 jurisdiction to which the tax shall be a debt to the extent  
25 indicated in that Section 8 shall be the county), 9 (except as  
26 to the disposition of taxes and penalties collected), 10, 11,

1 12 (except the reference therein to Section 2b of the  
2 Retailers' Occupation Tax Act), 13 (except that any reference  
3 to the State shall mean the county), Section 15, 16, 17, 18, 19  
4 and 20 of the Service Occupation Tax Act and Section 3-7 of the  
5 Uniform Penalty and Interest Act, as fully as if those  
6 provisions were set forth herein.

7 Persons subject to any tax imposed under the authority  
8 granted in this subsection may reimburse themselves for their  
9 serviceman's tax liability by separately stating the tax as an  
10 additional charge, which charge may be stated in combination,  
11 in a single amount, with State tax that servicemen are  
12 authorized to collect under the Service Use Tax Act, in  
13 accordance with such bracket schedules as the Department may  
14 prescribe.

15 Whenever the Department determines that a refund should be  
16 made under this subsection to a claimant instead of issuing a  
17 credit memorandum, the Department shall notify the State  
18 Comptroller, who shall cause the warrant to be drawn for the  
19 amount specified, and to the person named, in the notification  
20 from the Department. The refund shall be paid by the State  
21 Treasurer out of the County Public Safety or Transportation  
22 Retailers' Occupation Fund.

23 Nothing in this subsection shall be construed to authorize  
24 the county to impose a tax upon the privilege of engaging in  
25 any business which under the Constitution of the United States  
26 may not be made the subject of taxation by the State.

1           (c) The Department shall immediately pay over to the State  
2 Treasurer, ex officio, as trustee, all taxes and penalties  
3 collected under this Section to be deposited into the County  
4 Public Safety or Transportation Retailers' Occupation Tax  
5 Fund, which shall be an unappropriated trust fund held outside  
6 of the State treasury. On or before the 25th day of each  
7 calendar month, the Department shall prepare and certify to the  
8 Comptroller the disbursement of stated sums of money to the  
9 counties from which retailers have paid taxes or penalties to  
10 the Department during the second preceding calendar month. The  
11 amount to be paid to each county, and deposited by the county  
12 into its special fund created for the purposes of this Section,  
13 shall be the amount (not including credit memoranda) collected  
14 under this Section during the second preceding calendar month  
15 by the Department plus an amount the Department determines is  
16 necessary to offset any amounts that were erroneously paid to a  
17 different taxing body, and not including (i) an amount equal to  
18 the amount of refunds made during the second preceding calendar  
19 month by the Department on behalf of the county and (ii) any  
20 amount that the Department determines is necessary to offset  
21 any amounts that were payable to a different taxing body but  
22 were erroneously paid to the county. Within 10 days after  
23 receipt by the Comptroller of the disbursement certification to  
24 the counties provided for in this Section to be given to the  
25 Comptroller by the Department, the Comptroller shall cause the  
26 orders to be drawn for the respective amounts in accordance

1 with directions contained in the certification.

2 In addition to the disbursement required by the preceding  
3 paragraph, an allocation shall be made in March of each year to  
4 each county that received more than \$500,000 in disbursements  
5 under the preceding paragraph in the preceding calendar year.  
6 The allocation shall be in an amount equal to the average  
7 monthly distribution made to each such county under the  
8 preceding paragraph during the preceding calendar year  
9 (excluding the 2 months of highest receipts). The distribution  
10 made in March of each year subsequent to the year in which an  
11 allocation was made pursuant to this paragraph and the  
12 preceding paragraph shall be reduced by the amount allocated  
13 and disbursed under this paragraph in the preceding calendar  
14 year. The Department shall prepare and certify to the  
15 Comptroller for disbursement the allocations made in  
16 accordance with this paragraph.

17 (d) For the purpose of determining the local governmental  
18 unit whose tax is applicable, a retail sale by a producer of  
19 coal or another mineral mined in Illinois is a sale at retail  
20 at the place where the coal or other mineral mined in Illinois  
21 is extracted from the earth. This paragraph does not apply to  
22 coal or another mineral when it is delivered or shipped by the  
23 seller to the purchaser at a point outside Illinois so that the  
24 sale is exempt under the United States Constitution as a sale  
25 in interstate or foreign commerce.

26 (e) Nothing in this Section shall be construed to authorize

1 a county to impose a tax upon the privilege of engaging in any  
2 business that under the Constitution of the United States may  
3 not be made the subject of taxation by this State.

4 (e-5) If a county imposes a tax under this Section, the  
5 county board may, by ordinance, discontinue or lower the rate  
6 of the tax. If the county board lowers the tax rate or  
7 discontinues the tax, a referendum must be held in accordance  
8 with subsection (a) of this Section in order to increase the  
9 rate of the tax or to reimpose the discontinued tax.

10 (f) Beginning April 1, 1998, the results of any election  
11 authorizing a proposition to impose a tax under this Section or  
12 effecting a change in the rate of tax, or any ordinance  
13 lowering the rate or discontinuing the tax, shall be certified  
14 by the county clerk and filed with the Illinois Department of  
15 Revenue either (i) on or before the first day of April,  
16 whereupon the Department shall proceed to administer and  
17 enforce the tax as of the first day of July next following the  
18 filing; or (ii) on or before the first day of October,  
19 whereupon the Department shall proceed to administer and  
20 enforce the tax as of the first day of January next following  
21 the filing.

22 (g) When certifying the amount of a monthly disbursement to  
23 a county under this Section, the Department shall increase or  
24 decrease the amounts by an amount necessary to offset any  
25 miscalculation of previous disbursements. The offset amount  
26 shall be the amount erroneously disbursed within the previous 6

1 months from the time a miscalculation is discovered.

2 (h) This Section may be cited as the "Special County  
3 Occupation Tax For Public Safety, Public Facilities, or  
4 Transportation Law".

5 (i) For purposes of this Section, "public safety" includes,  
6 but is not limited to, crime prevention, detention, fire  
7 fighting, police, medical, ambulance, or other emergency  
8 services. For the purposes of this Section, "transportation"  
9 includes, but is not limited to, the construction, maintenance,  
10 operation, and improvement of public highways, any other  
11 purpose for which a county may expend funds under the Illinois  
12 Highway Code, and passenger rail transportation. For the  
13 purposes of this Section, "public facilities purposes"  
14 includes, but is not limited to, the acquisition, development,  
15 construction, reconstruction, rehabilitation, improvement,  
16 financing, architectural planning, and installation of capital  
17 facilities consisting of buildings, structures, and durable  
18 equipment and for the acquisition and improvement of real  
19 property and interest in real property required, or expected to  
20 be required, in connection with the public facilities, for use  
21 by the county for the furnishing of governmental services to  
22 its citizens, including but not limited to museums and nursing  
23 homes.

24 (j) The Department may promulgate rules to implement this  
25 amendatory Act of the 95th General Assembly only to the extent  
26 necessary to apply the existing rules for the Special County

1 Retailers' Occupation Tax for Public Safety to this new purpose  
2 for public facilities.

3 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08;  
4 95-1002, eff. 11-20-08.)

5 (55 ILCS 5/5-1006.7)

6 Sec. 5-1006.7. School facility occupation taxes.

7 (a) The county board of any county may impose a tax upon  
8 all persons engaged in the business of selling tangible  
9 personal property, other than personal property titled or  
10 registered with an agency of this State's government, at retail  
11 in the county on the gross receipts from the sales made in the  
12 course of business to provide revenue to be used exclusively  
13 for school facility purposes if a proposition for the tax has  
14 been submitted to the electors of that county and approved by a  
15 majority of those voting on the question as provided in  
16 subsection (c). The tax under this Section may be imposed only  
17 in one-quarter percent increments and may not exceed 1%.

18 This additional tax may not be imposed on the sale of food  
19 for human consumption that is to be consumed off the premises  
20 where it is sold (other than alcoholic beverages, soft drinks,  
21 and food that has been prepared for immediate consumption) and  
22 prescription and non-prescription medicines, drugs, medical  
23 appliances, modifications to a motor vehicle for the purpose of  
24 rendering it usable by a disabled person, and insulin, urine  
25 testing materials, syringes and needles used by diabetics. The



1 Department of Revenue has full power to administer and enforce  
2 this subsection, to collect all taxes and penalties due under  
3 this subsection, to dispose of taxes and penalties so collected  
4 in the manner provided in this subsection, and to determine all  
5 rights to credit memoranda arising on account of the erroneous  
6 payment of a tax or penalty under this subsection. The  
7 Department shall deposit all taxes and penalties collected  
8 under this subsection into a special fund created for that  
9 purpose.

10 In the administration of and compliance with this  
11 subsection, the Department and persons who are subject to this  
12 subsection (i) have the same rights, remedies, privileges,  
13 immunities, powers, and duties, (ii) are subject to the same  
14 conditions, restrictions, limitations, penalties, and  
15 definitions of terms, and (iii) shall employ the same modes of  
16 procedure as are set forth in Sections 1 through 10, 2 through  
17 2-70 (in respect to all provisions contained in those Sections  
18 other than the State rate of tax), 2a through 2h, 3 (except as  
19 to the disposition of taxes and penalties collected), 4, 5, 5a,  
20 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
21 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act  
22 and all provisions of the Uniform Penalty and Interest Act as  
23 if those provisions were set forth in this subsection.

24 The certificate of registration that is issued by the  
25 Department to a retailer under the Retailers' Occupation Tax  
26 Act permits the retailer to engage in a business that is

1 taxable without registering separately with the Department  
2 under an ordinance or resolution under this subsection.

3 Persons subject to any tax imposed under the authority  
4 granted in this subsection may reimburse themselves for their  
5 seller's tax liability by separately stating that tax as an  
6 additional charge, which may be stated in combination, in a  
7 single amount, with State tax that sellers are required to  
8 collect under the Use Tax Act, pursuant to any bracketed  
9 schedules set forth by the Department.

10 (b) If a tax has been imposed under subsection (a), then a  
11 service occupation tax must also be imposed at the same rate  
12 upon all persons engaged, in the county, in the business of  
13 making sales of service, who, as an incident to making those  
14 sales of service, transfer tangible personal property within  
15 the county as an incident to a sale of service.

16 This tax may not be imposed on sales of food for human  
17 consumption that is to be consumed off the premises where it is  
18 sold (other than alcoholic beverages, soft drinks, and food  
19 prepared for immediate consumption) and prescription and  
20 non-prescription medicines, drugs, medical appliances,  
21 modifications to a motor vehicle for the purpose of rendering  
22 it usable by a disabled person, and insulin, urine testing  
23 materials, syringes, and needles used by diabetics.

24 The tax imposed under this subsection and all civil  
25 penalties that may be assessed as an incident thereof shall be  
26 collected and enforced by the Department and deposited into a

1 special fund created for that purpose. The Department has full  
2 power to administer and enforce this subsection, to collect all  
3 taxes and penalties due under this subsection, to dispose of  
4 taxes and penalties so collected in the manner provided in this  
5 subsection, and to determine all rights to credit memoranda  
6 arising on account of the erroneous payment of a tax or penalty  
7 under this subsection.

8 In the administration of and compliance with this  
9 subsection, the Department and persons who are subject to this  
10 subsection shall (i) have the same rights, remedies,  
11 privileges, immunities, powers and duties, (ii) be subject to  
12 the same conditions, restrictions, limitations, penalties and  
13 definition of terms, and (iii) employ the same modes of  
14 procedure as are set forth in Sections 2 (except that that  
15 reference to State in the definition of supplier maintaining a  
16 place of business in this State means the county), 2a through  
17 2d, 3 through 3-50 (in respect to all provisions contained in  
18 those Sections other than the State rate of tax), 4 (except  
19 that the reference to the State shall be to the county), 5, 7,  
20 8 (except that the jurisdiction to which the tax is a debt to  
21 the extent indicated in that Section 8 is the county), 9  
22 (except as to the disposition of taxes and penalties  
23 collected), 10, 11, 12 (except the reference therein to Section  
24 2b of the Retailers' Occupation Tax Act), 13 (except that any  
25 reference to the State means the county), Section 15, 16, 17,  
26 18, 19, and 20 of the Service Occupation Tax Act and all

1 provisions of the Uniform Penalty and Interest Act, as fully as  
2 if those provisions were set forth herein.

3 Persons subject to any tax imposed under the authority  
4 granted in this subsection may reimburse themselves for their  
5 serviceman's tax liability by separately stating the tax as an  
6 additional charge, which may be stated in combination, in a  
7 single amount, with State tax that servicemen are authorized to  
8 collect under the Service Use Tax Act, pursuant to any  
9 bracketed schedules set forth by the Department.

10 (c) The tax under this Section may not be imposed until, by  
11 ordinance or resolution of the county board, the question of  
12 imposing the tax has been submitted to the electors of the  
13 county at a regular election and approved by a majority of the  
14 electors voting on the question. Upon a resolution by the  
15 county board or a resolution by school district boards that  
16 represent at least 51% of the student enrollment within the  
17 county, the county board must certify the question to the  
18 proper election authority in accordance with the Election Code.

19 The election authority must submit the question in  
20 substantially the following form:

21 Shall (name of county) be authorized to impose a  
22 retailers' occupation tax and a service occupation tax  
23 (commonly referred to as a "sales tax") at a rate of  
24 (insert rate) to be used exclusively for school facility  
25 purposes?

26 The election authority must record the votes as "Yes" or "No".

1           If a majority of the electors voting on the question vote  
2 in the affirmative, then the county may, thereafter, impose the  
3 tax.

4           For the purposes of this subsection (c), "enrollment" means  
5 the head count of the students residing in the county on the  
6 last school day of September of each year, which must be  
7 reported on the Illinois State Board of Education Public School  
8 Fall Enrollment/Housing Report.

9           (d) The Department shall immediately pay over to the State  
10 Treasurer, ex officio, as trustee, all taxes and penalties  
11 collected under this Section to be deposited into the School  
12 Facility Occupation Tax Fund, which shall be an unappropriated  
13 trust fund held outside the State treasury.

14           On or before the 25th day of each calendar month, the  
15 Department shall prepare and certify to the Comptroller the  
16 disbursement of stated sums of money to the regional  
17 superintendents of schools in counties from which retailers or  
18 servicemen have paid taxes or penalties to the Department  
19 during the second preceding calendar month. The amount to be  
20 paid to each regional superintendent of schools and disbursed  
21 to him or her in accordance with 3-14.31 of the School Code, is  
22 equal to the amount (not including credit memoranda) collected  
23 from the county under this Section during the second preceding  
24 calendar month by the Department, (i) less 2% of that amount,  
25 which shall be deposited into the Tax Compliance and  
26 Administration Fund and shall be used by the Department,

1 subject to appropriation, to cover the costs of the Department  
2 in administering and enforcing the provisions of this Section,  
3 on behalf of the county, (ii) plus an amount that the  
4 Department determines is necessary to offset any amounts that  
5 were erroneously paid to a different taxing body; (iii) less an  
6 amount equal to the amount of refunds made during the second  
7 preceding calendar month by the Department on behalf of the  
8 county; and (iv) less any amount that the Department determines  
9 is necessary to offset any amounts that were payable to a  
10 different taxing body but were erroneously paid to the county.  
11 When certifying the amount of a monthly disbursement to a  
12 regional superintendent of schools under this Section, the  
13 Department shall increase or decrease the amounts by an amount  
14 necessary to offset any miscalculation of previous  
15 disbursements within the previous 6 months from the time a  
16 miscalculation is discovered.

17 Within 10 days after receipt by the Comptroller from the  
18 Department of the disbursement certification to the regional  
19 superintendents of the schools provided for in this Section,  
20 the Comptroller shall cause the orders to be drawn for the  
21 respective amounts in accordance with directions contained in  
22 the certification.

23 If the Department determines that a refund should be made  
24 under this Section to a claimant instead of issuing a credit  
25 memorandum, then the Department shall notify the Comptroller,  
26 who shall cause the order to be drawn for the amount specified

1 and to the person named in the notification from the  
2 Department. The refund shall be paid by the Treasurer out of  
3 the School Facility Occupation Tax Fund.

4 (e) For the purposes of determining the local governmental  
5 unit whose tax is applicable, a retail sale by a producer of  
6 coal or another mineral mined in Illinois is a sale at retail  
7 at the place where the coal or other mineral mined in Illinois  
8 is extracted from the earth. This subsection does not apply to  
9 coal or another mineral when it is delivered or shipped by the  
10 seller to the purchaser at a point outside Illinois so that the  
11 sale is exempt under the United States Constitution as a sale  
12 in interstate or foreign commerce.

13 (f) Nothing in this Section may be construed to authorize a  
14 county board to impose a tax upon the privilege of engaging in  
15 any business that under the Constitution of the United States  
16 may not be made the subject of taxation by this State.

17 (g) If a county board imposes a tax under this Section,  
18 then the board may, by ordinance, discontinue or reduce the  
19 rate of the tax. If, however, a school board issues bonds that  
20 are backed by the proceeds of the tax under this Section, then  
21 the county board may not reduce the tax rate or discontinue the  
22 tax if that rate reduction or discontinuance would inhibit the  
23 school board's ability to pay the principal and interest on  
24 those bonds as they become due. If the county board reduces the  
25 tax rate or discontinues the tax, then a referendum must be  
26 held in accordance with subsection (c) of this Section in order

1 to increase the rate of the tax or to reimpose the discontinued  
2 tax.

3 The results of any election that authorizes a proposition  
4 to impose a tax under this Section or to change the rate of the  
5 tax along with an ordinance imposing the tax, or any ordinance  
6 that lowers the rate or discontinues the tax, must be certified  
7 by the county clerk and filed with the Illinois Department of  
8 Revenue either (i) on or before the first day of April,  
9 whereupon the Department shall proceed to administer and  
10 enforce the tax or change in the rate as of the first day of  
11 July next following the filing; or (ii) on or before the first  
12 day of October, whereupon the Department shall proceed to  
13 administer and enforce the tax or change in the rate as of the  
14 first day of January next following the filing.

15 (h) For purposes of this Section, "school facility  
16 purposes" means the acquisition, development, construction,  
17 reconstruction, rehabilitation, improvement, financing,  
18 architectural planning, and installation of capital facilities  
19 consisting of buildings, structures, and durable equipment and  
20 for the acquisition and improvement of real property and  
21 interest in real property required, or expected to be required,  
22 in connection with the capital facilities. "School-facility  
23 purposes" also includes fire prevention, safety, energy  
24 conservation, disabled accessibility, school security, and  
25 specified repair purposes set forth under Section 17-2.11 of  
26 the School Code.



1 (i) This Section does not apply to Cook County.

2 (j) This Section may be cited as the County School Facility  
3 Occupation Tax Law.

4 (Source: P.A. 95-675, eff. 10-11-07.)

5 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

6 Sec. 5-1007. Home Rule County Service Occupation Tax Law.

7 The corporate authorities of a home rule county may impose a  
8 tax upon all persons engaged, in such county, in the business  
9 of making sales of service at the same rate of tax imposed  
10 pursuant to Section 5-1006 of the selling price of all tangible  
11 personal property transferred by such servicemen either in the  
12 form of tangible personal property or in the form of real  
13 estate as an incident to a sale of service. If imposed, such  
14 tax shall only be imposed in 1/4% increments. On and after  
15 September 1, 1991, this additional tax may not be imposed on  
16 the sales of food for human consumption which is to be consumed  
17 off the premises where it is sold (other than alcoholic  
18 beverages, soft drinks and food which has been prepared for  
19 immediate consumption) and prescription and nonprescription  
20 medicines, drugs, medical appliances, modifications to a motor  
21 vehicle for the purpose of rendering it usable by a disabled  
22 person, and insulin, urine testing materials, syringes and  
23 needles used by diabetics. The tax imposed by a home rule  
24 county pursuant to this Section and all civil penalties that  
25 may be assessed as an incident thereof shall be collected and

1 enforced by the State Department of Revenue. The certificate of  
2 registration which is issued by the Department to a retailer  
3 under the Retailers' Occupation Tax Act or under the Service  
4 Occupation Tax Act shall permit such registrant to engage in a  
5 business which is taxable under any ordinance or resolution  
6 enacted pursuant to this Section without registering  
7 separately with the Department under such ordinance or  
8 resolution or under this Section. The Department shall have  
9 full power to administer and enforce this Section; to collect  
10 all taxes and penalties due hereunder; to dispose of taxes and  
11 penalties so collected in the manner hereinafter provided; and  
12 to determine all rights to credit memoranda arising on account  
13 of the erroneous payment of tax or penalty hereunder. In the  
14 administration of, and compliance with, this Section the  
15 Department and persons who are subject to this Section shall  
16 have the same rights, remedies, privileges, immunities, powers  
17 and duties, and be subject to the same conditions,  
18 restrictions, limitations, penalties and definitions of terms,  
19 and employ the same modes of procedure, as are prescribed in  
20 Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all  
21 provisions therein other than the State rate of tax), 4 (except  
22 that the reference to the State shall be to the taxing county),  
23 5, 7, 8 (except that the jurisdiction to which the tax shall be  
24 a debt to the extent indicated in that Section 8 shall be the  
25 taxing county), 9 (except as to the disposition of taxes and  
26 penalties collected, and except that the returned merchandise

1 credit for this county tax may not be taken against any State  
2 tax), 10, 11, 12 (except the reference therein to Section 2b of  
3 the Retailers' Occupation Tax Act), 13 (except that any  
4 reference to the State shall mean the taxing county), the first  
5 paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service  
6 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
7 Interest Act, as fully as if those provisions were set forth  
8 herein.

9 No tax may be imposed by a home rule county pursuant to  
10 this Section unless such county also imposes a tax at the same  
11 rate pursuant to Section 5-1006.

12 Persons subject to any tax imposed pursuant to the  
13 authority granted in this Section may reimburse themselves for  
14 their serviceman's tax liability hereunder by separately  
15 stating such tax as an additional charge, which charge may be  
16 stated in combination, in a single amount, with State tax which  
17 servicemen are authorized to collect under the Service Use Tax  
18 Act, pursuant to such bracket schedules as the Department may  
19 prescribe.

20 Whenever the Department determines that a refund should be  
21 made under this Section to a claimant instead of issuing credit  
22 memorandum, the Department shall notify the State Comptroller,  
23 who shall cause the order to be drawn for the amount specified,  
24 and to the person named, in such notification from the  
25 Department. Such refund shall be paid by the State Treasurer  
26 out of the home rule county retailers' occupation tax fund.

1           The Department shall forthwith pay over to the State  
2 Treasurer, ex-officio, as trustee, all taxes and penalties  
3 collected hereunder. On or before the 25th day of each calendar  
4 month, the Department shall prepare and certify to the  
5 Comptroller the disbursement of stated sums of money to named  
6 counties, the counties to be those from which suppliers and  
7 servicemen have paid taxes or penalties hereunder to the  
8 Department during the second preceding calendar month. The  
9 amount to be paid to each county shall be the amount (not  
10 including credit memoranda) collected hereunder during the  
11 second preceding calendar month by the Department, and not  
12 including an amount equal to the amount of refunds made during  
13 the second preceding calendar month by the Department on behalf  
14 of such county. Within 10 days after receipt, by the  
15 Comptroller, of the disbursement certification to the counties  
16 provided for in this Section to be given to the Comptroller by  
17 the Department, the Comptroller shall cause the orders to be  
18 drawn for the respective amounts in accordance with the  
19 directions contained in such certification.

20           In addition to the disbursement required by the preceding  
21 paragraph, an allocation shall be made in each year to each  
22 county which received more than \$500,000 in disbursements under  
23 the preceding paragraph in the preceding calendar year. The  
24 allocation shall be in an amount equal to the average monthly  
25 distribution made to each such county under the preceding  
26 paragraph during the preceding calendar year (excluding the 2

1 months of highest receipts). The distribution made in March of  
2 each year subsequent to the year in which an allocation was  
3 made pursuant to this paragraph and the preceding paragraph  
4 shall be reduced by the amount allocated and disbursed under  
5 this paragraph in the preceding calendar year. The Department  
6 shall prepare and certify to the Comptroller for disbursement  
7 the allocations made in accordance with this paragraph.

8 Nothing in this Section shall be construed to authorize a  
9 county to impose a tax upon the privilege of engaging in any  
10 business which under the Constitution of the United States may  
11 not be made the subject of taxation by this State.

12 An ordinance or resolution imposing or discontinuing a tax  
13 hereunder or effecting a change in the rate thereof shall be  
14 adopted and a certified copy thereof filed with the Department  
15 on or before the first day of June, whereupon the Department  
16 shall proceed to administer and enforce this Section as of the  
17 first day of September next following such adoption and filing.  
18 Beginning January 1, 1992, an ordinance or resolution imposing  
19 or discontinuing the tax hereunder or effecting a change in the  
20 rate thereof shall be adopted and a certified copy thereof  
21 filed with the Department on or before the first day of July,  
22 whereupon the Department shall proceed to administer and  
23 enforce this Section as of the first day of October next  
24 following such adoption and filing. Beginning January 1, 1993,  
25 an ordinance or resolution imposing or discontinuing the tax  
26 hereunder or effecting a change in the rate thereof shall be

1 adopted and a certified copy thereof filed with the Department  
2 on or before the first day of October, whereupon the Department  
3 shall proceed to administer and enforce this Section as of the  
4 first day of January next following such adoption and filing.  
5 Beginning April 1, 1998, an ordinance or resolution imposing or  
6 discontinuing the tax hereunder or effecting a change in the  
7 rate thereof shall either (i) be adopted and a certified copy  
8 thereof filed with the Department on or before the first day of  
9 April, whereupon the Department shall proceed to administer and  
10 enforce this Section as of the first day of July next following  
11 the adoption and filing; or (ii) be adopted and a certified  
12 copy thereof filed with the Department on or before the first  
13 day of October, whereupon the Department shall proceed to  
14 administer and enforce this Section as of the first day of  
15 January next following the adoption and filing.

16 This Section shall be known and may be cited as the Home  
17 Rule County Service Occupation Tax Law.

18 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

19 (55 ILCS 5/5-1035 rep.)

20 Section 40. The Counties Code is amended by repealing  
21 Section 5-1035.

22 Section 45. The Illinois Municipal Code is amended by  
23 changing Sections 8-11-1, 8-11-1.1, 8-11-1.3, 8-11-1.4,  
24 8-11-5, and 11-74.3-6 as follows:

1 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

2 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax  
3 Act. The corporate authorities of a home rule municipality may  
4 impose a tax upon all persons engaged in the business of  
5 selling tangible personal property, other than an item of  
6 tangible personal property titled or registered with an agency  
7 of this State's government, at retail in the municipality on  
8 the gross receipts from these sales made in the course of such  
9 business. If imposed, the tax shall only be imposed in 1/4%  
10 increments. On and after September 1, 1991, this additional tax  
11 may not be imposed on the sales of food for human consumption  
12 that is to be consumed off the premises where it is sold (other  
13 than alcoholic beverages, soft drinks and food that has been  
14 prepared for immediate consumption) and prescription and  
15 nonprescription medicines, drugs, medical appliances,  
16 modifications to a motor vehicle for the purpose of rendering  
17 it usable by a disabled person, and insulin, urine testing  
18 materials, syringes and needles used by diabetics. The tax  
19 imposed by a home rule municipality under this Section and all  
20 civil penalties that may be assessed as an incident of the tax  
21 shall be collected and enforced by the State Department of  
22 Revenue. The certificate of registration that is issued by the  
23 Department to a retailer under the Retailers' Occupation Tax  
24 Act shall permit the retailer to engage in a business that is  
25 taxable under any ordinance or resolution enacted pursuant to

1 this Section without registering separately with the  
2 Department under such ordinance or resolution or under this  
3 Section. The Department shall have full power to administer and  
4 enforce this Section; to collect all taxes and penalties due  
5 hereunder; to dispose of taxes and penalties so collected in  
6 the manner hereinafter provided; and to determine all rights to  
7 credit memoranda arising on account of the erroneous payment of  
8 tax or penalty hereunder. In the administration of, and  
9 compliance with, this Section the Department and persons who  
10 are subject to this Section shall have the same rights,  
11 remedies, privileges, immunities, powers and duties, and be  
12 subject to the same conditions, restrictions, limitations,  
13 penalties and definitions of terms, and employ the same modes  
14 of procedure, as are prescribed in Sections 1, 1a, 1d, 1e, 1f,  
15 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all  
16 provisions therein other than the State rate of tax), 2c, 3  
17 (except as to the disposition of taxes and penalties  
18 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,  
19 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'  
20 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
21 Interest Act, as fully as if those provisions were set forth  
22 herein.

23 No tax may be imposed by a home rule municipality under  
24 this Section unless the municipality also imposes a tax at the  
25 same rate under Section 8-11-5 of this Act.

26 Persons subject to any tax imposed under the authority



1 granted in this Section may reimburse themselves for their  
2 seller's tax liability hereunder by separately stating that tax  
3 as an additional charge, which charge may be stated in  
4 combination, in a single amount, with State tax which sellers  
5 are required to collect under the Use Tax Act, pursuant to such  
6 bracket schedules as the Department may prescribe.

7 Whenever the Department determines that a refund should be  
8 made under this Section to a claimant instead of issuing a  
9 credit memorandum, the Department shall notify the State  
10 Comptroller, who shall cause the order to be drawn for the  
11 amount specified and to the person named in the notification  
12 from the Department. The refund shall be paid by the State  
13 Treasurer out of the home rule municipal retailers' occupation  
14 tax fund.

15 The Department shall immediately pay over to the State  
16 Treasurer, ex officio, as trustee, all taxes and penalties  
17 collected hereunder. On or before the 25th day of each calendar  
18 month, the Department shall prepare and certify to the  
19 Comptroller the disbursement of stated sums of money to named  
20 municipalities, the municipalities to be those from which  
21 retailers have paid taxes or penalties hereunder to the  
22 Department during the second preceding calendar month. The  
23 amount to be paid to each municipality shall be the amount (not  
24 including credit memoranda) collected hereunder during the  
25 second preceding calendar month by the Department plus an  
26 amount the Department determines is necessary to offset any

1 amounts that were erroneously paid to a different taxing body,  
2 and not including an amount equal to the amount of refunds made  
3 during the second preceding calendar month by the Department on  
4 behalf of such municipality, and not including any amount that  
5 the Department determines is necessary to offset any amounts  
6 that were payable to a different taxing body but were  
7 erroneously paid to the municipality. Within 10 days after  
8 receipt by the Comptroller of the disbursement certification to  
9 the municipalities provided for in this Section to be given to  
10 the Comptroller by the Department, the Comptroller shall cause  
11 the orders to be drawn for the respective amounts in accordance  
12 with the directions contained in the certification.

13 In addition to the disbursement required by the preceding  
14 paragraph and in order to mitigate delays caused by  
15 distribution procedures, an allocation shall, if requested, be  
16 made within 10 days after January 14, 1991, and in November of  
17 1991 and each year thereafter, to each municipality that  
18 received more than \$500,000 during the preceding fiscal year,  
19 (July 1 through June 30) whether collected by the municipality  
20 or disbursed by the Department as required by this Section.  
21 Within 10 days after January 14, 1991, participating  
22 municipalities shall notify the Department in writing of their  
23 intent to participate. In addition, for the initial  
24 distribution, participating municipalities shall certify to  
25 the Department the amounts collected by the municipality for  
26 each month under its home rule occupation and service

1 occupation tax during the period July 1, 1989 through June 30,  
2 1990. The allocation within 10 days after January 14, 1991,  
3 shall be in an amount equal to the monthly average of these  
4 amounts, excluding the 2 months of highest receipts. The  
5 monthly average for the period of July 1, 1990 through June 30,  
6 1991 will be determined as follows: the amounts collected by  
7 the municipality under its home rule occupation and service  
8 occupation tax during the period of July 1, 1990 through  
9 September 30, 1990, plus amounts collected by the Department  
10 and paid to such municipality through June 30, 1991, excluding  
11 the 2 months of highest receipts. The monthly average for each  
12 subsequent period of July 1 through June 30 shall be an amount  
13 equal to the monthly distribution made to each such  
14 municipality under the preceding paragraph during this period,  
15 excluding the 2 months of highest receipts. The distribution  
16 made in November 1991 and each year thereafter under this  
17 paragraph and the preceding paragraph shall be reduced by the  
18 amount allocated and disbursed under this paragraph in the  
19 preceding period of July 1 through June 30. The Department  
20 shall prepare and certify to the Comptroller for disbursement  
21 the allocations made in accordance with this paragraph.

22 For the purpose of determining the local governmental unit  
23 whose tax is applicable, a retail sale by a producer of coal or  
24 other mineral mined in Illinois is a sale at retail at the  
25 place where the coal or other mineral mined in Illinois is  
26 extracted from the earth. This paragraph does not apply to coal

1 or other mineral when it is delivered or shipped by the seller  
2 to the purchaser at a point outside Illinois so that the sale  
3 is exempt under the United States Constitution as a sale in  
4 interstate or foreign commerce.

5 Nothing in this Section shall be construed to authorize a  
6 municipality to impose a tax upon the privilege of engaging in  
7 any business which under the Constitution of the United States  
8 may not be made the subject of taxation by this State.

9 An ordinance or resolution imposing or discontinuing a tax  
10 hereunder or effecting a change in the rate thereof shall be  
11 adopted and a certified copy thereof filed with the Department  
12 on or before the first day of June, whereupon the Department  
13 shall proceed to administer and enforce this Section as of the  
14 first day of September next following the adoption and filing.  
15 Beginning January 1, 1992, an ordinance or resolution imposing  
16 or discontinuing the tax hereunder or effecting a change in the  
17 rate thereof shall be adopted and a certified copy thereof  
18 filed with the Department on or before the first day of July,  
19 whereupon the Department shall proceed to administer and  
20 enforce this Section as of the first day of October next  
21 following such adoption and filing. Beginning January 1, 1993,  
22 an ordinance or resolution imposing or discontinuing the tax  
23 hereunder or effecting a change in the rate thereof shall be  
24 adopted and a certified copy thereof filed with the Department  
25 on or before the first day of October, whereupon the Department  
26 shall proceed to administer and enforce this Section as of the

1 first day of January next following the adoption and filing.  
2 However, a municipality located in a county with a population  
3 in excess of 3,000,000 that elected to become a home rule unit  
4 at the general primary election in 1994 may adopt an ordinance  
5 or resolution imposing the tax under this Section and file a  
6 certified copy of the ordinance or resolution with the  
7 Department on or before July 1, 1994. The Department shall then  
8 proceed to administer and enforce this Section as of October 1,  
9 1994. Beginning April 1, 1998, an ordinance or resolution  
10 imposing or discontinuing the tax hereunder or effecting a  
11 change in the rate thereof shall either (i) be adopted and a  
12 certified copy thereof filed with the Department on or before  
13 the first day of April, whereupon the Department shall proceed  
14 to administer and enforce this Section as of the first day of  
15 July next following the adoption and filing; or (ii) be adopted  
16 and a certified copy thereof filed with the Department on or  
17 before the first day of October, whereupon the Department shall  
18 proceed to administer and enforce this Section as of the first  
19 day of January next following the adoption and filing.

20 When certifying the amount of a monthly disbursement to a  
21 municipality under this Section, the Department shall increase  
22 or decrease the amount by an amount necessary to offset any  
23 misallocation of previous disbursements. The offset amount  
24 shall be the amount erroneously disbursed within the previous 6  
25 months from the time a misallocation is discovered.

26 Any unobligated balance remaining in the Municipal

1 Retailers' Occupation Tax Fund on December 31, 1989, which fund  
2 was abolished by Public Act 85-1135, and all receipts of  
3 municipal tax as a result of audits of liability periods prior  
4 to January 1, 1990, shall be paid into the Local Government Tax  
5 Fund for distribution as provided by this Section prior to the  
6 enactment of Public Act 85-1135. All receipts of municipal tax  
7 as a result of an assessment not arising from an audit, for  
8 liability periods prior to January 1, 1990, shall be paid into  
9 the Local Government Tax Fund for distribution before July 1,  
10 1990, as provided by this Section prior to the enactment of  
11 Public Act 85-1135; and on and after July 1, 1990, all such  
12 receipts shall be distributed as provided in Section 6z-18 of  
13 the State Finance Act.

14 As used in this Section, "municipal" and "municipality"  
15 means a city, village or incorporated town, including an  
16 incorporated town that has superseded a civil township.

17 This Section shall be known and may be cited as the Home  
18 Rule Municipal Retailers' Occupation Tax Act.

19 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

20 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

21 Sec. 8-11-1.1. Non-home rule municipalities; imposition of  
22 taxes.

23 (a) The corporate authorities of a non-home rule  
24 municipality may, upon approval of the electors of the  
25 municipality pursuant to subsection (b) of this Section, impose

1 by ordinance or resolution the tax authorized in Sections  
2 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

3 (b) The corporate authorities of the municipality may by  
4 ordinance or resolution call for the submission to the electors  
5 of the municipality the question of whether the municipality  
6 shall impose such tax. Such question shall be certified by the  
7 municipal clerk to the election authority in accordance with  
8 Section 28-5 of the Election Code and shall be in a form in  
9 accordance with Section 16-7 of the Election Code.

10 The proposition for the imposition of the non-home rule  
11 municipal retailers' occupation tax and non-home rule  
12 municipal service occupation tax shall be in substantially the  
13 following form:

14 "Shall (insert name of municipality) impose a Non-Home  
15 Rule Municipal Retailers' Occupation Tax and Non-Home Rule  
16 Municipal Service Occupation Tax at the rate of (insert  
17 rate) to be used by the municipality (choose one: [for  
18 expenditure on public infrastructure] [for property tax  
19 relief] [for expenditure on public infrastructure and for  
20 property tax relief]) as provided in Sections 8-11-1.1,  
21 8-11-1.2, 8-11-1.3, and 8-11-1.4 of the Illinois Municipal  
22 Code?"

23 The votes shall be recorded as "Yes" or "No".

24 If, in addition to the non-home rule municipal retailers'  
25 occupation tax and non-home rule municipal service occupation  
26 tax, a municipality opts to impose a non-home rule municipal

1 use tax on titled or registered vehicles as provided in Section  
2 8-11-1.5, which tax must be administered and collected by the  
3 municipality itself, the proposition above shall also include a  
4 reference to the Non-Home Rule Municipal Use Tax and a  
5 reference to Section 8-11-1.5 of the Illinois Municipal Code.

6 If a majority of the electors in the municipality voting  
7 upon the question vote in the affirmative, such tax shall be  
8 imposed.

9 An ordinance or resolution imposing the tax of not more  
10 than 1% hereunder or discontinuing the same shall be adopted  
11 and a certified copy thereof, together with a certification  
12 that the ordinance or resolution received referendum approval  
13 in the case of the imposition of such tax, filed with the  
14 Department of Revenue, on or before the first day of June,  
15 whereupon the Department shall proceed to administer and  
16 enforce the additional tax or to discontinue the tax, as the  
17 case may be, as of the first day of September next following  
18 such adoption and filing. Beginning January 1, 1992, an  
19 ordinance or resolution imposing or discontinuing the tax  
20 hereunder shall be adopted and a certified copy thereof filed  
21 with the Department on or before the first day of July,  
22 whereupon the Department shall proceed to administer and  
23 enforce this Section as of the first day of October next  
24 following such adoption and filing. Beginning January 1, 1993,  
25 an ordinance or resolution imposing or discontinuing the tax  
26 hereunder shall be adopted and a certified copy thereof filed



1 with the Department on or before the first day of October,  
2 whereupon the Department shall proceed to administer and  
3 enforce this Section as of the first day of January next  
4 following such adoption and filing. Beginning October 1, 2002,  
5 an ordinance or resolution imposing or discontinuing the tax  
6 under this Section or effecting a change in the rate of tax  
7 must either (i) be adopted and a certified copy of the  
8 ordinance or resolution filed with the Department on or before  
9 the first day of April, whereupon the Department shall proceed  
10 to administer and enforce this Section as of the first day of  
11 July next following the adoption and filing; or (ii) be adopted  
12 and a certified copy of the ordinance or resolution filed with  
13 the Department on or before the first day of October, whereupon  
14 the Department shall proceed to administer and enforce this  
15 Section as of the first day of January next following the  
16 adoption and filing.

17 Notwithstanding any provision in this Section to the  
18 contrary, if, in a non-home rule municipality with more than  
19 150,000 but fewer than 200,000 inhabitants, as determined by  
20 the last preceding federal decennial census, an ordinance or  
21 resolution under this Section imposes or discontinues a tax or  
22 changes the tax rate as of July 1, 2007, then that ordinance or  
23 resolution, together with a certification that the ordinance or  
24 resolution received referendum approval in the case of the  
25 imposition of the tax, must be adopted and a certified copy of  
26 that ordinance or resolution must be filed with the Department

1 on or before May 15, 2007, whereupon the Department shall  
2 proceed to administer and enforce this Section as of July 1,  
3 2007.

4 A non-home rule municipality may file a certified copy of  
5 an ordinance or resolution, with a certification that the  
6 ordinance or resolution received referendum approval in the  
7 case of the imposition of the tax, with the Department of  
8 Revenue, as required under this Section, only after October 2,  
9 2000.

10 The tax authorized by this Section may not be more than 1%  
11 and may be imposed only in 1/4% increments.

12 (Source: P.A. 94-679, eff. 1-1-06; 95-8, eff. 6-29-07.)

13 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

14 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'  
15 Occupation Tax Act. The corporate authorities of a non-home  
16 rule municipality may impose a tax upon all persons engaged in  
17 the business of selling tangible personal property, other than  
18 on an item of tangible personal property which is titled and  
19 registered by an agency of this State's Government, at retail  
20 in the municipality for expenditure on public infrastructure or  
21 for property tax relief or both as defined in Section 8-11-1.2  
22 if approved by referendum as provided in Section 8-11-1.1, of  
23 the gross receipts from such sales made in the course of such  
24 business. The tax imposed may not be more than 1% and may be  
25 imposed only in 1/4% increments. The tax may not be imposed on

1 the sale of food for human consumption that is to be consumed  
2 off the premises where it is sold (other than alcoholic  
3 beverages, soft drinks, and food that has been prepared for  
4 immediate consumption) and prescription and nonprescription  
5 medicines, drugs, medical appliances, modifications to a motor  
6 vehicle for the purpose of rendering it usable by a disabled  
7 person, and insulin, urine testing materials, syringes, and  
8 needles used by diabetics. The tax imposed by a municipality  
9 pursuant to this Section and all civil penalties that may be  
10 assessed as an incident thereof shall be collected and enforced  
11 by the State Department of Revenue. The certificate of  
12 registration which is issued by the Department to a retailer  
13 under the Retailers' Occupation Tax Act shall permit such  
14 retailer to engage in a business which is taxable under any  
15 ordinance or resolution enacted pursuant to this Section  
16 without registering separately with the Department under such  
17 ordinance or resolution or under this Section. The Department  
18 shall have full power to administer and enforce this Section;  
19 to collect all taxes and penalties due hereunder; to dispose of  
20 taxes and penalties so collected in the manner hereinafter  
21 provided, and to determine all rights to credit memoranda,  
22 arising on account of the erroneous payment of tax or penalty  
23 hereunder. In the administration of, and compliance with, this  
24 Section, the Department and persons who are subject to this  
25 Section shall have the same rights, remedies, privileges,  
26 immunities, powers and duties, and be subject to the same

1 conditions, restrictions, limitations, penalties and  
2 definitions of terms, and employ the same modes of procedure,  
3 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,  
4 2 through 2-65 (in respect to all provisions therein other than  
5 the State rate of tax), 2c, 3 (except as to the disposition of  
6 taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,  
7 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and  
8 13 of the Retailers' Occupation Tax Act and Section 3-7 of the  
9 Uniform Penalty and Interest Act as fully as if those  
10 provisions were set forth herein.

11 No municipality may impose a tax under this Section unless  
12 the municipality also imposes a tax at the same rate under  
13 Section 8-11-1.4 of this Code.

14 Persons subject to any tax imposed pursuant to the  
15 authority granted in this Section may reimburse themselves for  
16 their seller's tax liability hereunder by separately stating  
17 such tax as an additional charge, which charge may be stated in  
18 combination, in a single amount, with State tax which sellers  
19 are required to collect under the Use Tax Act, pursuant to such  
20 bracket schedules as the Department may prescribe.

21 Whenever the Department determines that a refund should be  
22 made under this Section to a claimant instead of issuing a  
23 credit memorandum, the Department shall notify the State  
24 Comptroller, who shall cause the order to be drawn for the  
25 amount specified, and to the person named, in such notification  
26 from the Department. Such refund shall be paid by the State

1 Treasurer out of the non-home rule municipal retailers'  
2 occupation tax fund.

3 The Department shall forthwith pay over to the State  
4 Treasurer, ex officio, as trustee, all taxes and penalties  
5 collected hereunder. On or before the 25th day of each calendar  
6 month, the Department shall prepare and certify to the  
7 Comptroller the disbursement of stated sums of money to named  
8 municipalities, the municipalities to be those from which  
9 retailers have paid taxes or penalties hereunder to the  
10 Department during the second preceding calendar month. The  
11 amount to be paid to each municipality shall be the amount (not  
12 including credit memoranda) collected hereunder during the  
13 second preceding calendar month by the Department plus an  
14 amount the Department determines is necessary to offset any  
15 amounts which were erroneously paid to a different taxing body,  
16 and not including an amount equal to the amount of refunds made  
17 during the second preceding calendar month by the Department on  
18 behalf of such municipality, and not including any amount which  
19 the Department determines is necessary to offset any amounts  
20 which were payable to a different taxing body but were  
21 erroneously paid to the municipality. Within 10 days after  
22 receipt, by the Comptroller, of the disbursement certification  
23 to the municipalities, provided for in this Section to be given  
24 to the Comptroller by the Department, the Comptroller shall  
25 cause the orders to be drawn for the respective amounts in  
26 accordance with the directions contained in such

1 certification.

2 For the purpose of determining the local governmental unit  
3 whose tax is applicable, a retail sale, by a producer of coal  
4 or other mineral mined in Illinois, is a sale at retail at the  
5 place where the coal or other mineral mined in Illinois is  
6 extracted from the earth. This paragraph does not apply to coal  
7 or other mineral when it is delivered or shipped by the seller  
8 to the purchaser at a point outside Illinois so that the sale  
9 is exempt under the Federal Constitution as a sale in  
10 interstate or foreign commerce.

11 Nothing in this Section shall be construed to authorize a  
12 municipality to impose a tax upon the privilege of engaging in  
13 any business which under the constitution of the United States  
14 may not be made the subject of taxation by this State.

15 When certifying the amount of a monthly disbursement to a  
16 municipality under this Section, the Department shall increase  
17 or decrease such amount by an amount necessary to offset any  
18 misallocation of previous disbursements. The offset amount  
19 shall be the amount erroneously disbursed within the previous 6  
20 months from the time a misallocation is discovered.

21 The Department of Revenue shall implement this amendatory  
22 Act of the 91st General Assembly so as to collect the tax on  
23 and after January 1, 2002.

24 As used in this Section, "municipal" and "municipality"  
25 means a city, village or incorporated town, including an  
26 incorporated town which has superseded a civil township.

1           This Section shall be known and may be cited as the  
2 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

3 (Source: P.A. 94-679, eff. 1-1-06.)

4           (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

5           Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation  
6 Tax Act. The corporate authorities of a non-home rule  
7 municipality may impose a tax upon all persons engaged, in such  
8 municipality, in the business of making sales of service for  
9 expenditure on public infrastructure or for property tax relief  
10 or both as defined in Section 8-11-1.2 if approved by  
11 referendum as provided in Section 8-11-1.1, of the selling  
12 price of all tangible personal property transferred by such  
13 servicemen either in the form of tangible personal property or  
14 in the form of real estate as an incident to a sale of service.  
15 The tax imposed may not be more than 1% and may be imposed only  
16 in 1/4% increments. The tax may not be imposed on the sale of  
17 food for human consumption that is to be consumed off the  
18 premises where it is sold (other than alcoholic beverages, soft  
19 drinks, and food that has been prepared for immediate  
20 consumption) and prescription and nonprescription medicines,  
21 drugs, medical appliances, modifications to a motor vehicle for  
22 the purpose of rendering it usable by a disabled person, and  
23 insulin, urine testing materials, syringes, and needles used by  
24 diabetics. The tax imposed by a municipality pursuant to this  
25 Section and all civil penalties that may be assessed as an

1 incident thereof shall be collected and enforced by the State  
2 Department of Revenue. The certificate of registration which is  
3 issued by the Department to a retailer under the Retailers'  
4 Occupation Tax Act or under the Service Occupation Tax Act  
5 shall permit such registrant to engage in a business which is  
6 taxable under any ordinance or resolution enacted pursuant to  
7 this Section without registering separately with the  
8 Department under such ordinance or resolution or under this  
9 Section. The Department shall have full power to administer and  
10 enforce this Section; to collect all taxes and penalties due  
11 hereunder; to dispose of taxes and penalties so collected in  
12 the manner hereinafter provided, and to determine all rights to  
13 credit memoranda arising on account of the erroneous payment of  
14 tax or penalty hereunder. In the administration of, and  
15 compliance with, this Section the Department and persons who  
16 are subject to this Section shall have the same rights,  
17 remedies, privileges, immunities, powers and duties, and be  
18 subject to the same conditions, restrictions, limitations,  
19 penalties and definitions of terms, and employ the same modes  
20 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3  
21 through 3-50 (in respect to all provisions therein other than  
22 the State rate of tax), 4 (except that the reference to the  
23 State shall be to the taxing municipality), 5, 7, 8 (except  
24 that the jurisdiction to which the tax shall be a debt to the  
25 extent indicated in that Section 8 shall be the taxing  
26 municipality), 9 (except as to the disposition of taxes and



1 penalties collected, and except that the returned merchandise  
2 credit for this municipal tax may not be taken against any  
3 State tax), 10, 11, 12 (except the reference therein to Section  
4 2b of the Retailers' Occupation Tax Act), 13 (except that any  
5 reference to the State shall mean the taxing municipality), the  
6 first paragraph of Section 15, 16, 17, 18, 19 and 20 of the  
7 Service Occupation Tax Act and Section 3-7 of the Uniform  
8 Penalty and Interest Act, as fully as if those provisions were  
9 set forth herein.

10 No municipality may impose a tax under this Section unless  
11 the municipality also imposes a tax at the same rate under  
12 Section 8-11-1.3 of this Code.

13 Persons subject to any tax imposed pursuant to the  
14 authority granted in this Section may reimburse themselves for  
15 their serviceman's tax liability hereunder by separately  
16 stating such tax as an additional charge, which charge may be  
17 stated in combination, in a single amount, with State tax which  
18 servicemen are authorized to collect under the Service Use Tax  
19 Act, pursuant to such bracket schedules as the Department may  
20 prescribe.

21 Whenever the Department determines that a refund should be  
22 made under this Section to a claimant instead of issuing credit  
23 memorandum, the Department shall notify the State Comptroller,  
24 who shall cause the order to be drawn for the amount specified,  
25 and to the person named, in such notification from the  
26 Department. Such refund shall be paid by the State Treasurer

1 out of the municipal retailers' occupation tax fund.

2 The Department shall forthwith pay over to the State  
3 Treasurer, ex officio, as trustee, all taxes and penalties  
4 collected hereunder. On or before the 25th day of each calendar  
5 month, the Department shall prepare and certify to the  
6 Comptroller the disbursement of stated sums of money to named  
7 municipalities, the municipalities to be those from which  
8 suppliers and servicemen have paid taxes or penalties hereunder  
9 to the Department during the second preceding calendar month.  
10 The amount to be paid to each municipality shall be the amount  
11 (not including credit memoranda) collected hereunder during  
12 the second preceding calendar month by the Department, and not  
13 including an amount equal to the amount of refunds made during  
14 the second preceding calendar month by the Department on behalf  
15 of such municipality. Within 10 days after receipt, by the  
16 Comptroller, of the disbursement certification to the  
17 municipalities and the General Revenue Fund, provided for in  
18 this Section to be given to the Comptroller by the Department,  
19 the Comptroller shall cause the orders to be drawn for the  
20 respective amounts in accordance with the directions contained  
21 in such certification.

22 The Department of Revenue shall implement this amendatory  
23 Act of the 91st General Assembly so as to collect the tax on  
24 and after January 1, 2002.

25 Nothing in this Section shall be construed to authorize a  
26 municipality to impose a tax upon the privilege of engaging in

1 any business which under the constitution of the United States  
2 may not be made the subject of taxation by this State.

3 As used in this Section, "municipal" or "municipality"  
4 means or refers to a city, village or incorporated town,  
5 including an incorporated town which has superseded a civil  
6 township.

7 This Section shall be known and may be cited as the  
8 "Non-Home Rule Municipal Service Occupation Tax Act".

9 (Source: P.A. 94-679, eff. 1-1-06.)

10 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

11 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax  
12 Act. The corporate authorities of a home rule municipality may  
13 impose a tax upon all persons engaged, in such municipality, in  
14 the business of making sales of service at the same rate of tax  
15 imposed pursuant to Section 8-11-1, of the selling price of all  
16 tangible personal property transferred by such servicemen  
17 either in the form of tangible personal property or in the form  
18 of real estate as an incident to a sale of service. If imposed,  
19 such tax shall only be imposed in 1/4% increments. On and after  
20 September 1, 1991, this additional tax may not be imposed on  
21 the sales of food for human consumption which is to be consumed  
22 off the premises where it is sold (other than alcoholic  
23 beverages, soft drinks and food which has been prepared for  
24 immediate consumption) and prescription and nonprescription  
25 medicines, drugs, medical appliances, modifications to a motor

1 vehicle for the purpose of rendering it usable by a disabled  
2 person, and insulin, urine testing materials, syringes and  
3 needles used by diabetics. The tax imposed by a home rule  
4 municipality pursuant to this Section and all civil penalties  
5 that may be assessed as an incident thereof shall be collected  
6 and enforced by the State Department of Revenue. The  
7 certificate of registration which is issued by the Department  
8 to a retailer under the Retailers' Occupation Tax Act or under  
9 the Service Occupation Tax Act shall permit such registrant to  
10 engage in a business which is taxable under any ordinance or  
11 resolution enacted pursuant to this Section without  
12 registering separately with the Department under such  
13 ordinance or resolution or under this Section. The Department  
14 shall have full power to administer and enforce this Section;  
15 to collect all taxes and penalties due hereunder; to dispose of  
16 taxes and penalties so collected in the manner hereinafter  
17 provided, and to determine all rights to credit memoranda  
18 arising on account of the erroneous payment of tax or penalty  
19 hereunder. In the administration of, and compliance with, this  
20 Section the Department and persons who are subject to this  
21 Section shall have the same rights, remedies, privileges,  
22 immunities, powers and duties, and be subject to the same  
23 conditions, restrictions, limitations, penalties and  
24 definitions of terms, and employ the same modes of procedure,  
25 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in  
26 respect to all provisions therein other than the State rate of

1 tax), 4 (except that the reference to the State shall be to the  
2 taxing municipality), 5, 7, 8 (except that the jurisdiction to  
3 which the tax shall be a debt to the extent indicated in that  
4 Section 8 shall be the taxing municipality), 9 (except as to  
5 the disposition of taxes and penalties collected, and except  
6 that the returned merchandise credit for this municipal tax may  
7 not be taken against any State tax), 10, 11, 12 (except the  
8 reference therein to Section 2b of the Retailers' Occupation  
9 Tax Act), 13 (except that any reference to the State shall mean  
10 the taxing municipality), the first paragraph of Section 15,  
11 16, 17 (except that credit memoranda issued hereunder may not  
12 be used to discharge any State tax liability), 18, 19 and 20 of  
13 the Service Occupation Tax Act and Section 3-7 of the Uniform  
14 Penalty and Interest Act, as fully as if those provisions were  
15 set forth herein.

16 No tax may be imposed by a home rule municipality pursuant  
17 to this Section unless such municipality also imposes a tax at  
18 the same rate pursuant to Section 8-11-1 of this Act.

19 Persons subject to any tax imposed pursuant to the  
20 authority granted in this Section may reimburse themselves for  
21 their serviceman's tax liability hereunder by separately  
22 stating such tax as an additional charge, which charge may be  
23 stated in combination, in a single amount, with State tax which  
24 servicemen are authorized to collect under the Service Use Tax  
25 Act, pursuant to such bracket schedules as the Department may  
26 prescribe.

1           Whenever the Department determines that a refund should be  
2 made under this Section to a claimant instead of issuing credit  
3 memorandum, the Department shall notify the State Comptroller,  
4 who shall cause the order to be drawn for the amount specified,  
5 and to the person named, in such notification from the  
6 Department. Such refund shall be paid by the State Treasurer  
7 out of the home rule municipal retailers' occupation tax fund.

8           The Department shall forthwith pay over to the State  
9 Treasurer, ex-officio, as trustee, all taxes and penalties  
10 collected hereunder. On or before the 25th day of each calendar  
11 month, the Department shall prepare and certify to the  
12 Comptroller the disbursement of stated sums of money to named  
13 municipalities, the municipalities to be those from which  
14 suppliers and servicemen have paid taxes or penalties hereunder  
15 to the Department during the second preceding calendar month.  
16 The amount to be paid to each municipality shall be the amount  
17 (not including credit memoranda) collected hereunder during  
18 the second preceding calendar month by the Department, and not  
19 including an amount equal to the amount of refunds made during  
20 the second preceding calendar month by the Department on behalf  
21 of such municipality. Within 10 days after receipt, by the  
22 Comptroller, of the disbursement certification to the  
23 municipalities, provided for in this Section to be given to the  
24 Comptroller by the Department, the Comptroller shall cause the  
25 orders to be drawn for the respective amounts in accordance  
26 with the directions contained in such certification.

1           In addition to the disbursement required by the preceding  
2 paragraph and in order to mitigate delays caused by  
3 distribution procedures, an allocation shall, if requested, be  
4 made within 10 days after January 14, 1991, and in November of  
5 1991 and each year thereafter, to each municipality that  
6 received more than \$500,000 during the preceding fiscal year,  
7 (July 1 through June 30) whether collected by the municipality  
8 or disbursed by the Department as required by this Section.  
9 Within 10 days after January 14, 1991, participating  
10 municipalities shall notify the Department in writing of their  
11 intent to participate. In addition, for the initial  
12 distribution, participating municipalities shall certify to  
13 the Department the amounts collected by the municipality for  
14 each month under its home rule occupation and service  
15 occupation tax during the period July 1, 1989 through June 30,  
16 1990. The allocation within 10 days after January 14, 1991,  
17 shall be in an amount equal to the monthly average of these  
18 amounts, excluding the 2 months of highest receipts. Monthly  
19 average for the period of July 1, 1990 through June 30, 1991  
20 will be determined as follows: the amounts collected by the  
21 municipality under its home rule occupation and service  
22 occupation tax during the period of July 1, 1990 through  
23 September 30, 1990, plus amounts collected by the Department  
24 and paid to such municipality through June 30, 1991, excluding  
25 the 2 months of highest receipts. The monthly average for each  
26 subsequent period of July 1 through June 30 shall be an amount

1 equal to the monthly distribution made to each such  
2 municipality under the preceding paragraph during this period,  
3 excluding the 2 months of highest receipts. The distribution  
4 made in November 1991 and each year thereafter under this  
5 paragraph and the preceding paragraph shall be reduced by the  
6 amount allocated and disbursed under this paragraph in the  
7 preceding period of July 1 through June 30. The Department  
8 shall prepare and certify to the Comptroller for disbursement  
9 the allocations made in accordance with this paragraph.

10 Nothing in this Section shall be construed to authorize a  
11 municipality to impose a tax upon the privilege of engaging in  
12 any business which under the constitution of the United States  
13 may not be made the subject of taxation by this State.

14 An ordinance or resolution imposing or discontinuing a tax  
15 hereunder or effecting a change in the rate thereof shall be  
16 adopted and a certified copy thereof filed with the Department  
17 on or before the first day of June, whereupon the Department  
18 shall proceed to administer and enforce this Section as of the  
19 first day of September next following such adoption and filing.  
20 Beginning January 1, 1992, an ordinance or resolution imposing  
21 or discontinuing the tax hereunder or effecting a change in the  
22 rate thereof shall be adopted and a certified copy thereof  
23 filed with the Department on or before the first day of July,  
24 whereupon the Department shall proceed to administer and  
25 enforce this Section as of the first day of October next  
26 following such adoption and filing. Beginning January 1, 1993,



1 an ordinance or resolution imposing or discontinuing the tax  
2 hereunder or effecting a change in the rate thereof shall be  
3 adopted and a certified copy thereof filed with the Department  
4 on or before the first day of October, whereupon the Department  
5 shall proceed to administer and enforce this Section as of the  
6 first day of January next following such adoption and filing.  
7 However, a municipality located in a county with a population  
8 in excess of 3,000,000 that elected to become a home rule unit  
9 at the general primary election in 1994 may adopt an ordinance  
10 or resolution imposing the tax under this Section and file a  
11 certified copy of the ordinance or resolution with the  
12 Department on or before July 1, 1994. The Department shall then  
13 proceed to administer and enforce this Section as of October 1,  
14 1994. Beginning April 1, 1998, an ordinance or resolution  
15 imposing or discontinuing the tax hereunder or effecting a  
16 change in the rate thereof shall either (i) be adopted and a  
17 certified copy thereof filed with the Department on or before  
18 the first day of April, whereupon the Department shall proceed  
19 to administer and enforce this Section as of the first day of  
20 July next following the adoption and filing; or (ii) be adopted  
21 and a certified copy thereof filed with the Department on or  
22 before the first day of October, whereupon the Department shall  
23 proceed to administer and enforce this Section as of the first  
24 day of January next following the adoption and filing.

25 Any unobligated balance remaining in the Municipal  
26 Retailers' Occupation Tax Fund on December 31, 1989, which fund

1 was abolished by Public Act 85-1135, and all receipts of  
2 municipal tax as a result of audits of liability periods prior  
3 to January 1, 1990, shall be paid into the Local Government Tax  
4 Fund, for distribution as provided by this Section prior to the  
5 enactment of Public Act 85-1135. All receipts of municipal tax  
6 as a result of an assessment not arising from an audit, for  
7 liability periods prior to January 1, 1990, shall be paid into  
8 the Local Government Tax Fund for distribution before July 1,  
9 1990, as provided by this Section prior to the enactment of  
10 Public Act 85-1135, and on and after July 1, 1990, all such  
11 receipts shall be distributed as provided in Section 6z-18 of  
12 the State Finance Act.

13 As used in this Section, "municipal" and "municipality"  
14 means a city, village or incorporated town, including an  
15 incorporated town which has superseded a civil township.

16 This Section shall be known and may be cited as the Home  
17 Rule Municipal Service Occupation Tax Act.

18 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

19 (65 ILCS 5/11-74.3-6)

20 Sec. 11-74.3-6. Business district revenue and obligations.

21 (a) If the corporate authorities of a municipality have  
22 approved a business district development or redevelopment plan  
23 and have elected to impose a tax by ordinance pursuant to  
24 subsections (b), (c), or (d) of this Section, each year after  
25 the date of the approval of the ordinance and until all

1 business district project costs and all municipal obligations  
2 financing the business district project costs, if any, have  
3 been paid in accordance with the business district development  
4 or redevelopment plan, but in no event longer than 23 years  
5 after the date of adoption of the ordinance approving the  
6 business district development or redevelopment plan, all  
7 amounts generated by the retailers' occupation tax and service  
8 occupation tax shall be collected and the tax shall be enforced  
9 by the Department of Revenue in the same manner as all  
10 retailers' occupation taxes and service occupation taxes  
11 imposed in the municipality imposing the tax and all amounts  
12 generated by the hotel operators' occupation tax shall be  
13 collected and the tax shall be enforced by the municipality in  
14 the same manner as all hotel operators' occupation taxes  
15 imposed in the municipality imposing the tax. The corporate  
16 authorities of the municipality shall deposit the proceeds of  
17 the taxes imposed under subsections (b), (c), and (d) into a  
18 special fund held by the corporate authorities of the  
19 municipality called the Business District Tax Allocation Fund  
20 for the purpose of paying business district project costs and  
21 obligations incurred in the payment of those costs.

22 (b) The corporate authorities of a municipality that has  
23 established a business district under this Division 74.3 may,  
24 by ordinance or resolution, impose a Business District  
25 Retailers' Occupation Tax upon all persons engaged in the  
26 business of selling tangible personal property, other than an

1 item of tangible personal property titled or registered with an  
2 agency of this State's government, at retail in the business  
3 district at a rate not to exceed 1% of the gross receipts from  
4 the sales made in the course of such business, to be imposed  
5 only in 0.25% increments. The tax may not be imposed on food  
6 for human consumption that is to be consumed off the premises  
7 where it is sold (other than alcoholic beverages, soft drinks,  
8 and food that has been prepared for immediate consumption),  
9 prescription and nonprescription medicines, drugs, medical  
10 appliances, modifications to a motor vehicle for the purpose of  
11 rendering it usable by a disabled person, and insulin, urine  
12 testing materials, syringes, and needles used by diabetics, for  
13 human use.

14 The tax imposed under this subsection and all civil  
15 penalties that may be assessed as an incident thereof shall be  
16 collected and enforced by the Department of Revenue. The  
17 certificate of registration that is issued by the Department to  
18 a retailer under the Retailers' Occupation Tax Act shall permit  
19 the retailer to engage in a business that is taxable under any  
20 ordinance or resolution enacted pursuant to this subsection  
21 without registering separately with the Department under such  
22 ordinance or resolution or under this subsection. The  
23 Department of Revenue shall have full power to administer and  
24 enforce this subsection; to collect all taxes and penalties due  
25 under this subsection in the manner hereinafter provided; and  
26 to determine all rights to credit memoranda arising on account

1 of the erroneous payment of tax or penalty under this  
2 subsection. In the administration of, and compliance with, this  
3 subsection, the Department and persons who are subject to this  
4 subsection shall have the same rights, remedies, privileges,  
5 immunities, powers and duties, and be subject to the same  
6 conditions, restrictions, limitations, penalties, exclusions,  
7 exemptions, and definitions of terms and employ the same modes  
8 of procedure, as are prescribed in Sections 1, 1a through 1o, 2  
9 through 2-65 (in respect to all provisions therein other than  
10 the State rate of tax), 2c through 2h, 3 (except as to the  
11 disposition of taxes and penalties collected), 4, 5, 5a, 5c,  
12 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,  
13 12, 13, and 14 of the Retailers' Occupation Tax Act and all  
14 provisions of the Uniform Penalty and Interest Act, as fully as  
15 if those provisions were set forth herein.

16 Persons subject to any tax imposed under this subsection  
17 may reimburse themselves for their seller's tax liability under  
18 this subsection by separately stating the tax as an additional  
19 charge, which charge may be stated in combination, in a single  
20 amount, with State taxes that sellers are required to collect  
21 under the Use Tax Act, in accordance with such bracket  
22 schedules as the Department may prescribe.

23 Whenever the Department determines that a refund should be  
24 made under this subsection to a claimant instead of issuing a  
25 credit memorandum, the Department shall notify the State  
26 Comptroller, who shall cause the order to be drawn for the

1 amount specified and to the person named in the notification  
2 from the Department. The refund shall be paid by the State  
3 Treasurer out of the business district retailers' occupation  
4 tax fund.

5 The Department shall immediately pay over to the State  
6 Treasurer, ex officio, as trustee, all taxes, penalties, and  
7 interest collected under this subsection for deposit into the  
8 business district retailers' occupation tax fund. On or before  
9 the 25th day of each calendar month, the Department shall  
10 prepare and certify to the Comptroller the disbursement of  
11 stated sums of money to named municipalities from the business  
12 district retailers' occupation tax fund, the municipalities to  
13 be those from which retailers have paid taxes or penalties  
14 under this subsection to the Department during the second  
15 preceding calendar month. The amount to be paid to each  
16 municipality shall be the amount (not including credit  
17 memoranda) collected under this subsection during the second  
18 preceding calendar month by the Department plus an amount the  
19 Department determines is necessary to offset any amounts that  
20 were erroneously paid to a different taxing body, and not  
21 including an amount equal to the amount of refunds made during  
22 the second preceding calendar month by the Department, less 2%  
23 of that amount, which shall be deposited into the Tax  
24 Compliance and Administration Fund and shall be used by the  
25 Department, subject to appropriation, to cover the costs of the  
26 Department in administering and enforcing the provisions of

1 this subsection, on behalf of such municipality, and not  
2 including any amount that the Department determines is  
3 necessary to offset any amounts that were payable to a  
4 different taxing body but were erroneously paid to the  
5 municipality. Within 10 days after receipt by the Comptroller  
6 of the disbursement certification to the municipalities  
7 provided for in this subsection to be given to the Comptroller  
8 by the Department, the Comptroller shall cause the orders to be  
9 drawn for the respective amounts in accordance with the  
10 directions contained in the certification. The proceeds of the  
11 tax paid to municipalities under this subsection shall be  
12 deposited into the Business District Tax Allocation Fund by the  
13 municipality.

14 An ordinance or resolution imposing or discontinuing the  
15 tax under this subsection or effecting a change in the rate  
16 thereof shall either (i) be adopted and a certified copy  
17 thereof filed with the Department on or before the first day of  
18 April, whereupon the Department, if all other requirements of  
19 this subsection are met, shall proceed to administer and  
20 enforce this subsection as of the first day of July next  
21 following the adoption and filing; or (ii) be adopted and a  
22 certified copy thereof filed with the Department on or before  
23 the first day of October, whereupon, if all other requirements  
24 of this subsection are met, the Department shall proceed to  
25 administer and enforce this subsection as of the first day of  
26 January next following the adoption and filing.

1           The Department of Revenue shall not administer or enforce  
2 an ordinance imposing, discontinuing, or changing the rate of  
3 the tax under this subsection, until the municipality also  
4 provides, in the manner prescribed by the Department, the  
5 boundaries of the business district and each address in the  
6 business district in such a way that the Department can  
7 determine by its address whether a business is located in the  
8 business district. The municipality must provide this boundary  
9 and address information to the Department on or before April 1  
10 for administration and enforcement of the tax under this  
11 subsection by the Department beginning on the following July 1  
12 and on or before October 1 for administration and enforcement  
13 of the tax under this subsection by the Department beginning on  
14 the following January 1. The Department of Revenue shall not  
15 administer or enforce any change made to the boundaries of a  
16 business district or any address change, addition, or deletion  
17 until the municipality reports the boundary change or address  
18 change, addition, or deletion to the Department in the manner  
19 prescribed by the Department. The municipality must provide  
20 this boundary change information or address change, addition,  
21 or deletion to the Department on or before April 1 for  
22 administration and enforcement by the Department of the change  
23 beginning on the following July 1 and on or before October 1  
24 for administration and enforcement by the Department of the  
25 change beginning on the following January 1. The retailers in  
26 the business district shall be responsible for charging the tax



1 imposed under this subsection. If a retailer is incorrectly  
2 included or excluded from the list of those required to collect  
3 the tax under this subsection, both the Department of Revenue  
4 and the retailer shall be held harmless if they reasonably  
5 relied on information provided by the municipality.

6 A municipality that imposes the tax under this subsection  
7 must submit to the Department of Revenue any other information  
8 as the Department may require for the administration and  
9 enforcement of the tax.

10 When certifying the amount of a monthly disbursement to a  
11 municipality under this subsection, the Department shall  
12 increase or decrease the amount by an amount necessary to  
13 offset any misallocation of previous disbursements. The offset  
14 amount shall be the amount erroneously disbursed within the  
15 previous 6 months from the time a misallocation is discovered.

16 Nothing in this subsection shall be construed to authorize  
17 the municipality to impose a tax upon the privilege of engaging  
18 in any business which under the Constitution of the United  
19 States may not be made the subject of taxation by this State.

20 If a tax is imposed under this subsection (b), a tax shall  
21 also be imposed under subsection (c) of this Section.

22 (c) If a tax has been imposed under subsection (b), a  
23 Business District Service Occupation Tax shall also be imposed  
24 upon all persons engaged, in the business district, in the  
25 business of making sales of service, who, as an incident to  
26 making those sales of service, transfer tangible personal

1 property within the business district, either in the form of  
2 tangible personal property or in the form of real estate as an  
3 incident to a sale of service. The tax shall be imposed at the  
4 same rate as the tax imposed in subsection (b) and shall not  
5 exceed 1% of the selling price of tangible personal property so  
6 transferred within the business district, to be imposed only in  
7 0.25% increments. The tax may not be imposed on food for human  
8 consumption that is to be consumed off the premises where it is  
9 sold (other than alcoholic beverages, soft drinks, and food  
10 that has been prepared for immediate consumption),  
11 prescription and nonprescription medicines, drugs, medical  
12 appliances, modifications to a motor vehicle for the purpose of  
13 rendering it usable by a disabled person, and insulin, urine  
14 testing materials, syringes, and needles used by diabetics, for  
15 human use.

16 The tax imposed under this subsection and all civil  
17 penalties that may be assessed as an incident thereof shall be  
18 collected and enforced by the Department of Revenue. The  
19 certificate of registration which is issued by the Department  
20 to a retailer under the Retailers' Occupation Tax Act or under  
21 the Service Occupation Tax Act shall permit such registrant to  
22 engage in a business which is taxable under any ordinance or  
23 resolution enacted pursuant to this subsection without  
24 registering separately with the Department under such  
25 ordinance or resolution or under this subsection. The  
26 Department of Revenue shall have full power to administer and

1 enforce this subsection; to collect all taxes and penalties due  
2 under this subsection; to dispose of taxes and penalties so  
3 collected in the manner hereinafter provided; and to determine  
4 all rights to credit memoranda arising on account of the  
5 erroneous payment of tax or penalty under this subsection. In  
6 the administration of, and compliance with this subsection, the  
7 Department and persons who are subject to this subsection shall  
8 have the same rights, remedies, privileges, immunities, powers  
9 and duties, and be subject to the same conditions,  
10 restrictions, limitations, penalties, exclusions, exemptions,  
11 and definitions of terms and employ the same modes of procedure  
12 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50  
13 (in respect to all provisions therein other than the State rate  
14 of tax), 4 (except that the reference to the State shall be to  
15 the business district), 5, 7, 8 (except that the jurisdiction  
16 to which the tax shall be a debt to the extent indicated in  
17 that Section 8 shall be the municipality), 9 (except as to the  
18 disposition of taxes and penalties collected, and except that  
19 the returned merchandise credit for this tax may not be taken  
20 against any State tax), 10, 11, 12 (except the reference  
21 therein to Section 2b of the Retailers' Occupation Tax Act), 13  
22 (except that any reference to the State shall mean the  
23 municipality), the first paragraph of Section 15, and Sections  
24 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all  
25 provisions of the Uniform Penalty and Interest Act, as fully as  
26 if those provisions were set forth herein.

1           Persons subject to any tax imposed under the authority  
2 granted in this subsection may reimburse themselves for their  
3 serviceman's tax liability hereunder by separately stating the  
4 tax as an additional charge, which charge may be stated in  
5 combination, in a single amount, with State tax that servicemen  
6 are authorized to collect under the Service Use Tax Act, in  
7 accordance with such bracket schedules as the Department may  
8 prescribe.

9           Whenever the Department determines that a refund should be  
10 made under this subsection to a claimant instead of issuing  
11 credit memorandum, the Department shall notify the State  
12 Comptroller, who shall cause the order to be drawn for the  
13 amount specified, and to the person named, in such notification  
14 from the Department. Such refund shall be paid by the State  
15 Treasurer out of the business district retailers' occupation  
16 tax fund.

17           The Department shall forthwith pay over to the State  
18 Treasurer, ex-officio, as trustee, all taxes, penalties, and  
19 interest collected under this subsection for deposit into the  
20 business district retailers' occupation tax fund. On or before  
21 the 25th day of each calendar month, the Department shall  
22 prepare and certify to the Comptroller the disbursement of  
23 stated sums of money to named municipalities from the business  
24 district retailers' occupation tax fund, the municipalities to  
25 be those from which suppliers and servicemen have paid taxes or  
26 penalties under this subsection to the Department during the

1 second preceding calendar month. The amount to be paid to each  
2 municipality shall be the amount (not including credit  
3 memoranda) collected under this subsection during the second  
4 preceding calendar month by the Department, less 2% of that  
5 amount, which shall be deposited into the Tax Compliance and  
6 Administration Fund and shall be used by the Department,  
7 subject to appropriation, to cover the costs of the Department  
8 in administering and enforcing the provisions of this  
9 subsection, and not including an amount equal to the amount of  
10 refunds made during the second preceding calendar month by the  
11 Department on behalf of such municipality. Within 10 days after  
12 receipt, by the Comptroller, of the disbursement certification  
13 to the municipalities, provided for in this subsection to be  
14 given to the Comptroller by the Department, the Comptroller  
15 shall cause the orders to be drawn for the respective amounts  
16 in accordance with the directions contained in such  
17 certification. The proceeds of the tax paid to municipalities  
18 under this subsection shall be deposited into the Business  
19 District Tax Allocation Fund by the municipality.

20 An ordinance or resolution imposing or discontinuing the  
21 tax under this subsection or effecting a change in the rate  
22 thereof shall either (i) be adopted and a certified copy  
23 thereof filed with the Department on or before the first day of  
24 April, whereupon the Department, if all other requirements of  
25 this subsection are met, shall proceed to administer and  
26 enforce this subsection as of the first day of July next

1 following the adoption and filing; or (ii) be adopted and a  
2 certified copy thereof filed with the Department on or before  
3 the first day of October, whereupon, if all other conditions of  
4 this subsection are met, the Department shall proceed to  
5 administer and enforce this subsection as of the first day of  
6 January next following the adoption and filing.

7 The Department of Revenue shall not administer or enforce  
8 an ordinance imposing, discontinuing, or changing the rate of  
9 the tax under this subsection, until the municipality also  
10 provides, in the manner prescribed by the Department, the  
11 boundaries of the business district and each address in the  
12 business district in such a way that the Department can  
13 determine by its address whether a business is located in the  
14 business district. The municipality must provide this boundary  
15 and address information to the Department on or before April 1  
16 for administration and enforcement of the tax under this  
17 subsection by the Department beginning on the following July 1  
18 and on or before October 1 for administration and enforcement  
19 of the tax under this subsection by the Department beginning on  
20 the following January 1. The Department of Revenue shall not  
21 administer or enforce any change made to the boundaries of a  
22 business district or any address change, addition, or deletion  
23 until the municipality reports the boundary change or address  
24 change, addition, or deletion to the Department in the manner  
25 prescribed by the Department. The municipality must provide  
26 this boundary change information or address change, addition,

1 or deletion to the Department on or before April 1 for  
2 administration and enforcement by the Department of the change  
3 beginning on the following July 1 and on or before October 1  
4 for administration and enforcement by the Department of the  
5 change beginning on the following January 1. The retailers in  
6 the business district shall be responsible for charging the tax  
7 imposed under this subsection. If a retailer is incorrectly  
8 included or excluded from the list of those required to collect  
9 the tax under this subsection, both the Department of Revenue  
10 and the retailer shall be held harmless if they reasonably  
11 relied on information provided by the municipality.

12 A municipality that imposes the tax under this subsection  
13 must submit to the Department of Revenue any other information  
14 as the Department may require for the administration and  
15 enforcement of the tax.

16 Nothing in this subsection shall be construed to authorize  
17 the municipality to impose a tax upon the privilege of engaging  
18 in any business which under the Constitution of the United  
19 States may not be made the subject of taxation by the State.

20 If a tax is imposed under this subsection (c), a tax shall  
21 also be imposed under subsection (b) of this Section.

22 (d) By ordinance, a municipality that has established a  
23 business district under this Division 74.3 may impose an  
24 occupation tax upon all persons engaged in the business  
25 district in the business of renting, leasing, or letting rooms  
26 in a hotel, as defined in the Hotel Operators' Occupation Tax

1 Act, at a rate not to exceed 1% of the gross rental receipts  
2 from the renting, leasing, or letting of hotel rooms within the  
3 business district, to be imposed only in 0.25% increments,  
4 excluding, however, from gross rental receipts the proceeds of  
5 renting, leasing, or letting to permanent residents of a hotel,  
6 as defined in the Hotel Operators' Occupation Tax Act, and  
7 proceeds from the tax imposed under subsection (c) of Section  
8 13 of the Metropolitan Pier and Exposition Authority Act.

9 The tax imposed by the municipality under this subsection  
10 and all civil penalties that may be assessed as an incident to  
11 that tax shall be collected and enforced by the municipality  
12 imposing the tax. The municipality shall have full power to  
13 administer and enforce this subsection, to collect all taxes  
14 and penalties due under this subsection, to dispose of taxes  
15 and penalties so collected in the manner provided in this  
16 subsection, and to determine all rights to credit memoranda  
17 arising on account of the erroneous payment of tax or penalty  
18 under this subsection. In the administration of and compliance  
19 with this subsection, the municipality and persons who are  
20 subject to this subsection shall have the same rights,  
21 remedies, privileges, immunities, powers, and duties, shall be  
22 subject to the same conditions, restrictions, limitations,  
23 penalties, and definitions of terms, and shall employ the same  
24 modes of procedure as are employed with respect to a tax  
25 adopted by the municipality under Section 8-3-14 of this Code.

26 Persons subject to any tax imposed under the authority



1 granted in this subsection may reimburse themselves for their  
2 tax liability for that tax by separately stating that tax as an  
3 additional charge, which charge may be stated in combination,  
4 in a single amount, with State taxes imposed under the Hotel  
5 Operators' Occupation Tax Act, and with any other tax.

6 Nothing in this subsection shall be construed to authorize  
7 a municipality to impose a tax upon the privilege of engaging  
8 in any business which under the Constitution of the United  
9 States may not be made the subject of taxation by this State.

10 The proceeds of the tax imposed under this subsection shall  
11 be deposited into the Business District Tax Allocation Fund.

12 (e) Obligations issued pursuant to subsection (14) of  
13 Section 11-74.3-3 shall be retired in the manner provided in  
14 the ordinance authorizing the issuance of those obligations by  
15 the receipts of taxes levied as authorized in subsections (12)  
16 and (13) of Section 11-74.3-3. The ordinance shall pledge all  
17 of the amounts in and to be deposited in the Business District  
18 Tax Allocation Fund to the payment of business district project  
19 costs and obligations. Obligations issued pursuant to  
20 subsection (14) of Section 11-74.3-3 may be sold at public or  
21 private sale at a price determined by the corporate authorities  
22 of the municipality and no referendum approval of the electors  
23 shall be required as a condition to the issuance of those  
24 obligations. The ordinance authorizing the obligations may  
25 require that the obligations contain a recital that they are  
26 issued pursuant to subsection (14) of Section 11-74.3-3 and

1 this recital shall be conclusive evidence of their validity and  
2 of the regularity of their issuance. The corporate authorities  
3 of the municipality may also issue its obligations to refund,  
4 in whole or in part, obligations previously issued by the  
5 municipality under the authority of this Code, whether at or  
6 prior to maturity. All obligations issued pursuant to  
7 subsection (14) of Section 11-74.3-3 shall not be regarded as  
8 indebtedness of the municipality issuing the obligations for  
9 the purpose of any limitation imposed by law.

10 (f) When business district costs, including, without  
11 limitation, all municipal obligations financing business  
12 district project costs incurred under Section 11-74.3-3 have  
13 been paid, any surplus funds then remaining in the Business  
14 District Tax Allocation Fund shall be distributed to the  
15 municipal treasurer for deposit into the municipal general  
16 corporate fund. Upon payment of all business district project  
17 costs and retirement of obligations, but in no event more than  
18 23 years after the date of adoption of the ordinance approving  
19 the business district development or redevelopment plan, the  
20 municipality shall adopt an ordinance immediately rescinding  
21 the taxes imposed pursuant to subsections (12) and (13) of  
22 Section 11-74.3-3.

23 (Source: P.A. 93-1053, eff. 1-1-05; 93-1089, eff. 3-7-05.)

24 (65 ILCS 5/8-11-9 rep.)

25 Section 50. The Illinois Municipal Code is amended by

1 repealing Section 8-11-9.

2 Section 55. The Metro-East Park and Recreation District Act  
3 is amended by changing Section 30 as follows:

4 (70 ILCS 1605/30)

5 Sec. 30. Taxes.

6 (a) The board shall impose a tax upon all persons engaged  
7 in the business of selling tangible personal property, other  
8 than personal property titled or registered with an agency of  
9 this State's government, at retail in the District on the gross  
10 receipts from the sales made in the course of business. This  
11 tax shall be imposed only at the rate of one-tenth of one per  
12 cent.

13 This additional tax may not be imposed on the sales of food  
14 for human consumption that is to be consumed off the premises  
15 where it is sold (other than alcoholic beverages, soft drinks,  
16 and food which has been prepared for immediate consumption) and  
17 prescription and non-prescription medicines, drugs, medical  
18 appliances, modifications to a motor vehicle for the purpose of  
19 rendering it usable by a disabled person, and insulin, urine  
20 testing materials, syringes, and needles used by diabetics. The  
21 tax imposed by the Board under this Section and all civil  
22 penalties that may be assessed as an incident of the tax shall  
23 be collected and enforced by the Department of Revenue. The  
24 certificate of registration that is issued by the Department to

1 a retailer under the Retailers' Occupation Tax Act shall permit  
2 the retailer to engage in a business that is taxable without  
3 registering separately with the Department under an ordinance  
4 or resolution under this Section. The Department has full power  
5 to administer and enforce this Section, to collect all taxes  
6 and penalties due under this Section, to dispose of taxes and  
7 penalties so collected in the manner provided in this Section,  
8 and to determine all rights to credit memoranda arising on  
9 account of the erroneous payment of a tax or penalty under this  
10 Section. In the administration of and compliance with this  
11 Section, the Department and persons who are subject to this  
12 Section shall (i) have the same rights, remedies, privileges,  
13 immunities, powers, and duties, (ii) be subject to the same  
14 conditions, restrictions, limitations, penalties, and  
15 definitions of terms, and (iii) employ the same modes of  
16 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,  
17 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to all  
18 provisions contained in those Sections other than the State  
19 rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except  
20 provisions relating to transaction returns and quarter monthly  
21 payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,  
22 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the  
23 Retailers' Occupation Tax Act and the Uniform Penalty and  
24 Interest Act as if those provisions were set forth in this  
25 Section.

26 Persons subject to any tax imposed under the authority

1 granted in this Section may reimburse themselves for their  
2 sellers' tax liability by separately stating the tax as an  
3 additional charge, which charge may be stated in combination,  
4 in a single amount, with State tax which sellers are required  
5 to collect under the Use Tax Act, pursuant to such bracketed  
6 schedules as the Department may prescribe.

7 Whenever the Department determines that a refund should be  
8 made under this Section to a claimant instead of issuing a  
9 credit memorandum, the Department shall notify the State  
10 Comptroller, who shall cause the order to be drawn for the  
11 amount specified and to the person named in the notification  
12 from the Department. The refund shall be paid by the State  
13 Treasurer out of the State Metro-East Park and Recreation  
14 District Fund.

15 (b) If a tax has been imposed under subsection (a), a  
16 service occupation tax shall also be imposed at the same rate  
17 upon all persons engaged, in the District, in the business of  
18 making sales of service, who, as an incident to making those  
19 sales of service, transfer tangible personal property within  
20 the District as an incident to a sale of service. This tax may  
21 not be imposed on sales of food for human consumption that is  
22 to be consumed off the premises where it is sold (other than  
23 alcoholic beverages, soft drinks, and food prepared for  
24 immediate consumption) and prescription and non-prescription  
25 medicines, drugs, medical appliances, modifications to a motor  
26 vehicle for the purpose of rendering it usable by a disabled

1 person, and insulin, urine testing materials, syringes, and  
2 needles used by diabetics. The tax imposed under this  
3 subsection and all civil penalties that may be assessed as an  
4 incident thereof shall be collected and enforced by the  
5 Department of Revenue. The Department has full power to  
6 administer and enforce this subsection; to collect all taxes  
7 and penalties due hereunder; to dispose of taxes and penalties  
8 so collected in the manner hereinafter provided; and to  
9 determine all rights to credit memoranda arising on account of  
10 the erroneous payment of tax or penalty hereunder. In the  
11 administration of, and compliance with this subsection, the  
12 Department and persons who are subject to this paragraph shall  
13 (i) have the same rights, remedies, privileges, immunities,  
14 powers, and duties, (ii) be subject to the same conditions,  
15 restrictions, limitations, penalties, exclusions, exemptions,  
16 and definitions of terms, and (iii) employ the same modes of  
17 procedure as are prescribed in Sections 2 (except that the  
18 reference to State in the definition of supplier maintaining a  
19 place of business in this State shall mean the District), 2a,  
20 2b, 2c, 3 through 3-50 (in respect to all provisions therein  
21 other than the State rate of tax), 4 (except that the reference  
22 to the State shall be to the District), 5, 7, 8 (except that  
23 the jurisdiction to which the tax shall be a debt to the extent  
24 indicated in that Section 8 shall be the District), 9 (except  
25 as to the disposition of taxes and penalties collected), 10,  
26 11, 12 (except the reference therein to Section 2b of the

1 Retailers' Occupation Tax Act), 13 (except that any reference  
2 to the State shall mean the District), Sections 15, 16, 17, 18,  
3 19 and 20 of the Service Occupation Tax Act and the Uniform  
4 Penalty and Interest Act, as fully as if those provisions were  
5 set forth herein.

6 Persons subject to any tax imposed under the authority  
7 granted in this subsection may reimburse themselves for their  
8 serviceman's tax liability by separately stating the tax as an  
9 additional charge, which charge may be stated in combination,  
10 in a single amount, with State tax that servicemen are  
11 authorized to collect under the Service Use Tax Act, in  
12 accordance with such bracket schedules as the Department may  
13 prescribe.

14 Whenever the Department determines that a refund should be  
15 made under this subsection to a claimant instead of issuing a  
16 credit memorandum, the Department shall notify the State  
17 Comptroller, who shall cause the warrant to be drawn for the  
18 amount specified, and to the person named, in the notification  
19 from the Department. The refund shall be paid by the State  
20 Treasurer out of the State Metro-East Park and Recreation  
21 District Fund.

22 Nothing in this subsection shall be construed to authorize  
23 the board to impose a tax upon the privilege of engaging in any  
24 business which under the Constitution of the United States may  
25 not be made the subject of taxation by the State.

26 (c) The Department shall immediately pay over to the State

1 Treasurer, ex officio, as trustee, all taxes and penalties  
2 collected under this Section to be deposited into the State  
3 Metro-East Park and Recreation District Fund, which shall be an  
4 unappropriated trust fund held outside of the State treasury.  
5 On or before the 25th day of each calendar month, the  
6 Department shall prepare and certify to the Comptroller the  
7 disbursement of stated sums of money pursuant to Section 35 of  
8 this Act to the District from which retailers have paid taxes  
9 or penalties to the Department during the second preceding  
10 calendar month. The amount to be paid to the District shall be  
11 the amount (not including credit memoranda) collected under  
12 this Section during the second preceding calendar month by the  
13 Department plus an amount the Department determines is  
14 necessary to offset any amounts that were erroneously paid to a  
15 different taxing body, and not including (i) an amount equal to  
16 the amount of refunds made during the second preceding calendar  
17 month by the Department on behalf of the District and (ii) any  
18 amount that the Department determines is necessary to offset  
19 any amounts that were payable to a different taxing body but  
20 were erroneously paid to the District. Within 10 days after  
21 receipt by the Comptroller of the disbursement certification to  
22 the District provided for in this Section to be given to the  
23 Comptroller by the Department, the Comptroller shall cause the  
24 orders to be drawn for the respective amounts in accordance  
25 with directions contained in the certification.

26 (d) For the purpose of determining whether a tax authorized



1 under this Section is applicable, a retail sale by a producer  
2 of coal or another mineral mined in Illinois is a sale at  
3 retail at the place where the coal or other mineral mined in  
4 Illinois is extracted from the earth. This paragraph does not  
5 apply to coal or another mineral when it is delivered or  
6 shipped by the seller to the purchaser at a point outside  
7 Illinois so that the sale is exempt under the United States  
8 Constitution as a sale in interstate or foreign commerce.

9 (e) Nothing in this Section shall be construed to authorize  
10 the board to impose a tax upon the privilege of engaging in any  
11 business that under the Constitution of the United States may  
12 not be made the subject of taxation by this State.

13 (f) An ordinance imposing a tax under this Section or an  
14 ordinance extending the imposition of a tax to an additional  
15 county or counties shall be certified by the board and filed  
16 with the Department of Revenue either (i) on or before the  
17 first day of April, whereupon the Department shall proceed to  
18 administer and enforce the tax as of the first day of July next  
19 following the filing; or (ii) on or before the first day of  
20 October, whereupon the Department shall proceed to administer  
21 and enforce the tax as of the first day of January next  
22 following the filing.

23 (g) When certifying the amount of a monthly disbursement to  
24 the District under this Section, the Department shall increase  
25 or decrease the amounts by an amount necessary to offset any  
26 misallocation of previous disbursements. The offset amount

1 shall be the amount erroneously disbursed within the previous 6  
2 months from the time a misallocation is discovered.

3 (Source: P.A. 91-103, eff. 7-13-99.)

4 Section 60. The Regional Transportation Authority Act is  
5 amended by changing Section 4.03 as follows:

6 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

7 Sec. 4.03. Taxes.

8 (a) In order to carry out any of the powers or purposes of  
9 the Authority, the Board may by ordinance adopted with the  
10 concurrence of 12 of the then Directors, impose throughout the  
11 metropolitan region any or all of the taxes provided in this  
12 Section. Except as otherwise provided in this Act, taxes  
13 imposed under this Section and civil penalties imposed incident  
14 thereto shall be collected and enforced by the State Department  
15 of Revenue. The Department shall have the power to administer  
16 and enforce the taxes and to determine all rights for refunds  
17 for erroneous payments of the taxes. Nothing in this amendatory  
18 Act of the 95th General Assembly is intended to invalidate any  
19 taxes currently imposed by the Authority. The increased vote  
20 requirements to impose a tax shall only apply to actions taken  
21 after the effective date of this amendatory Act of the 95th  
22 General Assembly.

23 (b) The Board may impose a public transportation tax upon  
24 all persons engaged in the metropolitan region in the business

1 of selling at retail motor fuel for operation of motor vehicles  
2 upon public highways. The tax shall be at a rate not to exceed  
3 5% of the gross receipts from the sales of motor fuel in the  
4 course of the business. As used in this Act, the term "motor  
5 fuel" shall have the same meaning as in the Motor Fuel Tax Law.  
6 The Board may provide for details of the tax. The provisions of  
7 any tax shall conform, as closely as may be practicable, to the  
8 provisions of the Municipal Retailers Occupation Tax Act,  
9 including without limitation, conformity to penalties with  
10 respect to the tax imposed and as to the powers of the State  
11 Department of Revenue to promulgate and enforce rules and  
12 regulations relating to the administration and enforcement of  
13 the provisions of the tax imposed, except that reference in the  
14 Act to any municipality shall refer to the Authority and the  
15 tax shall be imposed only with regard to receipts from sales of  
16 motor fuel in the metropolitan region, at rates as limited by  
17 this Section.

18 (c) In connection with the tax imposed under paragraph (b)  
19 of this Section the Board may impose a tax upon the privilege  
20 of using in the metropolitan region motor fuel for the  
21 operation of a motor vehicle upon public highways, the tax to  
22 be at a rate not in excess of the rate of tax imposed under  
23 paragraph (b) of this Section. The Board may provide for  
24 details of the tax.

25 (d) The Board may impose a motor vehicle parking tax upon  
26 the privilege of parking motor vehicles at off-street parking

1 facilities in the metropolitan region at which a fee is  
2 charged, and may provide for reasonable classifications in and  
3 exemptions to the tax, for administration and enforcement  
4 thereof and for civil penalties and refunds thereunder and may  
5 provide criminal penalties thereunder, the maximum penalties  
6 not to exceed the maximum criminal penalties provided in the  
7 Retailers' Occupation Tax Act. The Authority may collect and  
8 enforce the tax itself or by contract with any unit of local  
9 government. The State Department of Revenue shall have no  
10 responsibility for the collection and enforcement unless the  
11 Department agrees with the Authority to undertake the  
12 collection and enforcement. As used in this paragraph, the term  
13 "parking facility" means a parking area or structure having  
14 parking spaces for more than 2 vehicles at which motor vehicles  
15 are permitted to park in return for an hourly, daily, or other  
16 periodic fee, whether publicly or privately owned, but does not  
17 include parking spaces on a public street, the use of which is  
18 regulated by parking meters.

19 (e) The Board may impose a Regional Transportation  
20 Authority Retailers' Occupation Tax upon all persons engaged in  
21 the business of selling tangible personal property at retail in  
22 the metropolitan region. In Cook County the tax rate shall be  
23 1.25% of the gross receipts from sales of food for human  
24 consumption that is to be consumed off the premises where it is  
25 sold (other than alcoholic beverages, soft drinks and food that  
26 has been prepared for immediate consumption) and prescription

1 and nonprescription medicines, drugs, medical appliances and  
2 insulin, urine testing materials, syringes and needles used by  
3 diabetics, and 1% of the gross receipts from other taxable  
4 sales made in the course of that business. In DuPage, Kane,  
5 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%  
6 of the gross receipts from all taxable sales made in the course  
7 of that business. The tax imposed under this Section and all  
8 civil penalties that may be assessed as an incident thereof  
9 shall be collected and enforced by the State Department of  
10 Revenue. The Department shall have full power to administer and  
11 enforce this Section; to collect all taxes and penalties so  
12 collected in the manner hereinafter provided; and to determine  
13 all rights to credit memoranda arising on account of the  
14 erroneous payment of tax or penalty hereunder. In the  
15 administration of, and compliance with this Section, the  
16 Department and persons who are subject to this Section shall  
17 have the same rights, remedies, privileges, immunities, powers  
18 and duties, and be subject to the same conditions,  
19 restrictions, limitations, penalties, exclusions, exemptions  
20 and definitions of terms, and employ the same modes of  
21 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
22 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
23 therein other than the State rate of tax), 2c, 3 (except as to  
24 the disposition of taxes and penalties collected), 4, 5, 5a,  
25 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
26 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and

1 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
2 as if those provisions were set forth herein.

3 Persons subject to any tax imposed under the authority  
4 granted in this Section may reimburse themselves for their  
5 seller's tax liability hereunder by separately stating the tax  
6 as an additional charge, which charge may be stated in  
7 combination in a single amount with State taxes that sellers  
8 are required to collect under the Use Tax Act, under any  
9 bracket schedules the Department may prescribe.

10 Whenever the Department determines that a refund should be  
11 made under this Section to a claimant instead of issuing a  
12 credit memorandum, the Department shall notify the State  
13 Comptroller, who shall cause the warrant to be drawn for the  
14 amount specified, and to the person named, in the notification  
15 from the Department. The refund shall be paid by the State  
16 Treasurer out of the Regional Transportation Authority tax fund  
17 established under paragraph (n) of this Section.

18 If a tax is imposed under this subsection (e), a tax shall  
19 also be imposed under subsections (f) and (g) of this Section.

20 For the purpose of determining whether a tax authorized  
21 under this Section is applicable, a retail sale by a producer  
22 of coal or other mineral mined in Illinois, is a sale at retail  
23 at the place where the coal or other mineral mined in Illinois  
24 is extracted from the earth. This paragraph does not apply to  
25 coal or other mineral when it is delivered or shipped by the  
26 seller to the purchaser at a point outside Illinois so that the

1 sale is exempt under the Federal Constitution as a sale in  
2 interstate or foreign commerce.

3 No tax shall be imposed or collected under this subsection  
4 on the sale of a motor vehicle in this State to a resident of  
5 another state if that motor vehicle will not be titled in this  
6 State.

7 Nothing in this Section shall be construed to authorize the  
8 Regional Transportation Authority to impose a tax upon the  
9 privilege of engaging in any business that under the  
10 Constitution of the United States may not be made the subject  
11 of taxation by this State.

12 (f) If a tax has been imposed under paragraph (e), a  
13 Regional Transportation Authority Service Occupation Tax shall  
14 also be imposed upon all persons engaged, in the metropolitan  
15 region in the business of making sales of service, who as an  
16 incident to making the sales of service, transfer tangible  
17 personal property within the metropolitan region, either in the  
18 form of tangible personal property or in the form of real  
19 estate as an incident to a sale of service. In Cook County, the  
20 tax rate shall be: (1) 1.25% of the serviceman's cost price of  
21 food prepared for immediate consumption and transferred  
22 incident to a sale of service subject to the service occupation  
23 tax by an entity licensed under the Hospital Licensing Act or  
24 the Nursing Home Care Act that is located in the metropolitan  
25 region; (2) 1.25% of the selling price of food for human  
26 consumption that is to be consumed off the premises where it is

1 sold (other than alcoholic beverages, soft drinks and food that  
2 has been prepared for immediate consumption) and prescription  
3 and nonprescription medicines, drugs, medical appliances and  
4 insulin, urine testing materials, syringes and needles used by  
5 diabetics; and (3) 1% of the selling price from other taxable  
6 sales of tangible personal property transferred. In DuPage,  
7 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%  
8 of the selling price of all tangible personal property  
9 transferred.

10 The tax imposed under this paragraph and all civil  
11 penalties that may be assessed as an incident thereof shall be  
12 collected and enforced by the State Department of Revenue. The  
13 Department shall have full power to administer and enforce this  
14 paragraph; to collect all taxes and penalties due hereunder; to  
15 dispose of taxes and penalties collected in the manner  
16 hereinafter provided; and to determine all rights to credit  
17 memoranda arising on account of the erroneous payment of tax or  
18 penalty hereunder. In the administration of and compliance with  
19 this paragraph, the Department and persons who are subject to  
20 this paragraph shall have the same rights, remedies,  
21 privileges, immunities, powers and duties, and be subject to  
22 the same conditions, restrictions, limitations, penalties,  
23 exclusions, exemptions and definitions of terms, and employ the  
24 same modes of procedure, as are prescribed in Sections 1a-1, 2,  
25 2a, 3 through 3-50 (in respect to all provisions therein other  
26 than the State rate of tax), 4 (except that the reference to



1 the State shall be to the Authority), 5, 7, 8 (except that the  
2 jurisdiction to which the tax shall be a debt to the extent  
3 indicated in that Section 8 shall be the Authority), 9 (except  
4 as to the disposition of taxes and penalties collected, and  
5 except that the returned merchandise credit for this tax may  
6 not be taken against any State tax), 10, 11, 12 (except the  
7 reference therein to Section 2b of the Retailers' Occupation  
8 Tax Act), 13 (except that any reference to the State shall mean  
9 the Authority), the first paragraph of Section 15, 16, 17, 18,  
10 19 and 20 of the Service Occupation Tax Act and Section 3-7 of  
11 the Uniform Penalty and Interest Act, as fully as if those  
12 provisions were set forth herein.

13 Persons subject to any tax imposed under the authority  
14 granted in this paragraph may reimburse themselves for their  
15 serviceman's tax liability hereunder by separately stating the  
16 tax as an additional charge, that charge may be stated in  
17 combination in a single amount with State tax that servicemen  
18 are authorized to collect under the Service Use Tax Act, under  
19 any bracket schedules the Department may prescribe.

20 Whenever the Department determines that a refund should be  
21 made under this paragraph to a claimant instead of issuing a  
22 credit memorandum, the Department shall notify the State  
23 Comptroller, who shall cause the warrant to be drawn for the  
24 amount specified, and to the person named in the notification  
25 from the Department. The refund shall be paid by the State  
26 Treasurer out of the Regional Transportation Authority tax fund

1 established under paragraph (n) of this Section.

2 Nothing in this paragraph shall be construed to authorize  
3 the Authority to impose a tax upon the privilege of engaging in  
4 any business that under the Constitution of the United States  
5 may not be made the subject of taxation by the State.

6 (g) If a tax has been imposed under paragraph (e), a tax  
7 shall also be imposed upon the privilege of using in the  
8 metropolitan region, any item of tangible personal property  
9 that is purchased outside the metropolitan region at retail  
10 from a retailer, and that is titled or registered with an  
11 agency of this State's government. In Cook County the tax rate  
12 shall be 1% of the selling price of the tangible personal  
13 property, as "selling price" is defined in the Use Tax Act. In  
14 DuPage, Kane, Lake, McHenry and Will counties the tax rate  
15 shall be 0.75% of the selling price of the tangible personal  
16 property, as "selling price" is defined in the Use Tax Act. The  
17 tax shall be collected from persons whose Illinois address for  
18 titling or registration purposes is given as being in the  
19 metropolitan region. The tax shall be collected by the  
20 Department of Revenue for the Regional Transportation  
21 Authority. The tax must be paid to the State, or an exemption  
22 determination must be obtained from the Department of Revenue,  
23 before the title or certificate of registration for the  
24 property may be issued. The tax or proof of exemption may be  
25 transmitted to the Department by way of the State agency with  
26 which, or the State officer with whom, the tangible personal

1 property must be titled or registered if the Department and the  
2 State agency or State officer determine that this procedure  
3 will expedite the processing of applications for title or  
4 registration.

5 The Department shall have full power to administer and  
6 enforce this paragraph; to collect all taxes, penalties and  
7 interest due hereunder; to dispose of taxes, penalties and  
8 interest collected in the manner hereinafter provided; and to  
9 determine all rights to credit memoranda or refunds arising on  
10 account of the erroneous payment of tax, penalty or interest  
11 hereunder. In the administration of and compliance with this  
12 paragraph, the Department and persons who are subject to this  
13 paragraph shall have the same rights, remedies, privileges,  
14 immunities, powers and duties, and be subject to the same  
15 conditions, restrictions, limitations, penalties, exclusions,  
16 exemptions and definitions of terms and employ the same modes  
17 of procedure, as are prescribed in Sections 2 (except the  
18 definition of "retailer maintaining a place of business in this  
19 State"), 3 through 3-80 (except provisions pertaining to the  
20 State rate of tax, and except provisions concerning collection  
21 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,  
22 19 (except the portions pertaining to claims by retailers and  
23 except the last paragraph concerning refunds), 20, 21 and 22 of  
24 the Use Tax Act, and are not inconsistent with this paragraph,  
25 as fully as if those provisions were set forth herein.

26 Whenever the Department determines that a refund should be

1 made under this paragraph to a claimant instead of issuing a  
2 credit memorandum, the Department shall notify the State  
3 Comptroller, who shall cause the order to be drawn for the  
4 amount specified, and to the person named in the notification  
5 from the Department. The refund shall be paid by the State  
6 Treasurer out of the Regional Transportation Authority tax fund  
7 established under paragraph (n) of this Section.

8 (h) (Blank). ~~The Authority may impose a replacement vehicle~~  
9 ~~tax of \$50 on any passenger car as defined in Section 1-157 of~~  
10 ~~the Illinois Vehicle Code purchased within the metropolitan~~  
11 ~~region by or on behalf of an insurance company to replace a~~  
12 ~~passenger car of an insured person in settlement of a total~~  
13 ~~loss claim. The tax imposed may not become effective before the~~  
14 ~~first day of the month following the passage of the ordinance~~  
15 ~~imposing the tax and receipt of a certified copy of the~~  
16 ~~ordinance by the Department of Revenue. The Department of~~  
17 ~~Revenue shall collect the tax for the Authority in accordance~~  
18 ~~with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.~~

19 ~~The Department shall immediately pay over to the State~~  
20 ~~Treasurer, ex officio, as trustee, all taxes collected~~  
21 ~~hereunder. On or before the 25th day of each calendar month,~~  
22 ~~the Department shall prepare and certify to the Comptroller the~~  
23 ~~disbursement of stated sums of money to the Authority. The~~  
24 ~~amount to be paid to the Authority shall be the amount~~  
25 ~~collected hereunder during the second preceding calendar month~~  
26 ~~by the Department, less any amount determined by the Department~~

1 ~~to be necessary for the payment of refunds. Within 10 days~~  
2 ~~after receipt by the Comptroller of the disbursement~~  
3 ~~certification to the Authority provided for in this Section to~~  
4 ~~be given to the Comptroller by the Department, the Comptroller~~  
5 ~~shall cause the orders to be drawn for that amount in~~  
6 ~~accordance with the directions contained in the certification.~~

7 (i) The Board may not impose any other taxes except as it  
8 may from time to time be authorized by law to impose.

9 (j) A certificate of registration issued by the State  
10 Department of Revenue to a retailer under the Retailers'  
11 Occupation Tax Act or under the Service Occupation Tax Act  
12 shall permit the registrant to engage in a business that is  
13 taxed under the tax imposed under paragraphs (b), (e), (f) or  
14 (g) of this Section and no additional registration shall be  
15 required under the tax. A certificate issued under the Use Tax  
16 Act or the Service Use Tax Act shall be applicable with regard  
17 to any tax imposed under paragraph (c) of this Section.

18 (k) The provisions of any tax imposed under paragraph (c)  
19 of this Section shall conform as closely as may be practicable  
20 to the provisions of the Use Tax Act, including without  
21 limitation conformity as to penalties with respect to the tax  
22 imposed and as to the powers of the State Department of Revenue  
23 to promulgate and enforce rules and regulations relating to the  
24 administration and enforcement of the provisions of the tax  
25 imposed. The taxes shall be imposed only on use within the  
26 metropolitan region and at rates as provided in the paragraph.

1           (1) The Board in imposing any tax as provided in paragraphs  
2           (b) and (c) of this Section, shall, after seeking the advice of  
3           the State Department of Revenue, provide means for retailers,  
4           users or purchasers of motor fuel for purposes other than those  
5           with regard to which the taxes may be imposed as provided in  
6           those paragraphs to receive refunds of taxes improperly paid,  
7           which provisions may be at variance with the refund provisions  
8           as applicable under the Municipal Retailers Occupation Tax Act.  
9           The State Department of Revenue may provide for certificates of  
10          registration for users or purchasers of motor fuel for purposes  
11          other than those with regard to which taxes may be imposed as  
12          provided in paragraphs (b) and (c) of this Section to  
13          facilitate the reporting and nontaxability of the exempt sales  
14          or uses.

15          (m) Any ordinance imposing or discontinuing any tax under  
16          this Section shall be adopted and a certified copy thereof  
17          filed with the Department on or before June 1, whereupon the  
18          Department of Revenue shall proceed to administer and enforce  
19          this Section on behalf of the Regional Transportation Authority  
20          as of September 1 next following such adoption and filing.  
21          Beginning January 1, 1992, an ordinance or resolution imposing  
22          or discontinuing the tax hereunder shall be adopted and a  
23          certified copy thereof filed with the Department on or before  
24          the first day of July, whereupon the Department shall proceed  
25          to administer and enforce this Section as of the first day of  
26          October next following such adoption and filing. Beginning

1 January 1, 1993, an ordinance or resolution imposing,  
2 increasing, decreasing, or discontinuing the tax hereunder  
3 shall be adopted and a certified copy thereof filed with the  
4 Department, whereupon the Department shall proceed to  
5 administer and enforce this Section as of the first day of the  
6 first month to occur not less than 60 days following such  
7 adoption and filing. Any ordinance or resolution of the  
8 Authority imposing a tax under this Section and in effect on  
9 August 1, 2007 shall remain in full force and effect and shall  
10 be administered by the Department of Revenue under the terms  
11 and conditions and rates of tax established by such ordinance  
12 or resolution until the Department begins administering and  
13 enforcing an increased tax under this Section as authorized by  
14 this amendatory Act of the 95th General Assembly. The tax rates  
15 authorized by this amendatory Act of the 95th General Assembly  
16 are effective only if imposed by ordinance of the Authority.

17 (n) The State Department of Revenue shall, upon collecting  
18 any taxes as provided in this Section, pay the taxes over to  
19 the State Treasurer as trustee for the Authority. The taxes  
20 shall be held in a trust fund outside the State Treasury. On or  
21 before the 25th day of each calendar month, the State  
22 Department of Revenue shall prepare and certify to the  
23 Comptroller of the State of Illinois and to the Authority (i)  
24 the amount of taxes collected in each County other than Cook  
25 County in the metropolitan region, (ii) the amount of taxes  
26 collected within the City of Chicago, and (iii) the amount

1 collected in that portion of Cook County outside of Chicago,  
2 each amount less the amount necessary for the payment of  
3 refunds to taxpayers located in those areas described in items  
4 (i), (ii), and (iii). Within 10 days after receipt by the  
5 Comptroller of the certification of the amounts, the  
6 Comptroller shall cause an order to be drawn for the payment of  
7 two-thirds of the amounts certified in item (i) of this  
8 subsection to the Authority and one-third of the amounts  
9 certified in item (i) of this subsection to the respective  
10 counties other than Cook County and the amount certified in  
11 items (ii) and (iii) of this subsection to the Authority.

12 In addition to the disbursement required by the preceding  
13 paragraph, an allocation shall be made in July 1991 and each  
14 year thereafter to the Regional Transportation Authority. The  
15 allocation shall be made in an amount equal to the average  
16 monthly distribution during the preceding calendar year  
17 (excluding the 2 months of lowest receipts) and the allocation  
18 shall include the amount of average monthly distribution from  
19 the Regional Transportation Authority Occupation and Use Tax  
20 Replacement Fund. The distribution made in July 1992 and each  
21 year thereafter under this paragraph and the preceding  
22 paragraph shall be reduced by the amount allocated and  
23 disbursed under this paragraph in the preceding calendar year.  
24 The Department of Revenue shall prepare and certify to the  
25 Comptroller for disbursement the allocations made in  
26 accordance with this paragraph.



1           (o) Failure to adopt a budget ordinance or otherwise to  
2 comply with Section 4.01 of this Act or to adopt a Five-year  
3 Capital Program or otherwise to comply with paragraph (b) of  
4 Section 2.01 of this Act shall not affect the validity of any  
5 tax imposed by the Authority otherwise in conformity with law.

6           (p) At no time shall a public transportation tax or motor  
7 vehicle parking tax authorized under paragraphs (b), (c) and  
8 (d) of this Section be in effect at the same time as any  
9 retailers' occupation, use or service occupation tax  
10 authorized under paragraphs (e), (f) and (g) of this Section is  
11 in effect.

12           Any taxes imposed under the authority provided in  
13 paragraphs (b), (c) and (d) shall remain in effect only until  
14 the time as any tax authorized by paragraphs (e), (f) or (g) of  
15 this Section are imposed and becomes effective. Once any tax  
16 authorized by paragraphs (e), (f) or (g) is imposed the Board  
17 may not reimpose taxes as authorized in paragraphs (b), (c) and  
18 (d) of the Section unless any tax authorized by paragraphs (e),  
19 (f) or (g) of this Section becomes ineffective by means other  
20 than an ordinance of the Board.

21           (q) Any existing rights, remedies and obligations  
22 (including enforcement by the Regional Transportation  
23 Authority) arising under any tax imposed under paragraphs (b),  
24 (c) or (d) of this Section shall not be affected by the  
25 imposition of a tax under paragraphs (e), (f) or (g) of this  
26 Section.

1 (Source: P.A. 95-708, eff. 1-18-08.)

2 Section 65. The Water Commission Act of 1985 is amended by  
3 changing Section 4 as follows:

4 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

5 Sec. 4. (a) The board of commissioners of any county water  
6 commission may, by ordinance, impose throughout the territory  
7 of the commission any or all of the taxes provided in this  
8 Section for its corporate purposes. However, no county water  
9 commission may impose any such tax unless the commission  
10 certifies the proposition of imposing the tax to the proper  
11 election officials, who shall submit the proposition to the  
12 voters residing in the territory at an election in accordance  
13 with the general election law, and the proposition has been  
14 approved by a majority of those voting on the proposition.

15 The proposition shall be in the form provided in Section 5  
16 or shall be substantially in the following form:

17 -----

18 Shall the (insert corporate  
19 name of county water commission) YES  
20 impose (state type of tax or -----  
21 taxes to be imposed) at the NO  
22 rate of 1/4%?

23 -----

24 Taxes imposed under this Section and civil penalties

1 imposed incident thereto shall be collected and enforced by the  
2 State Department of Revenue. The Department shall have the  
3 power to administer and enforce the taxes and to determine all  
4 rights for refunds for erroneous payments of the taxes.

5 (b) The board of commissioners may impose a County Water  
6 Commission Retailers' Occupation Tax upon all persons engaged  
7 in the business of selling tangible personal property at retail  
8 in the territory of the commission at a rate of 1/4% of the  
9 gross receipts from the sales made in the course of such  
10 business within the territory. The tax imposed under this  
11 paragraph and all civil penalties that may be assessed as an  
12 incident thereof shall be collected and enforced by the State  
13 Department of Revenue. The Department shall have full power to  
14 administer and enforce this paragraph; to collect all taxes and  
15 penalties due hereunder; to dispose of taxes and penalties so  
16 collected in the manner hereinafter provided; and to determine  
17 all rights to credit memoranda arising on account of the  
18 erroneous payment of tax or penalty hereunder. In the  
19 administration of, and compliance with, this paragraph, the  
20 Department and persons who are subject to this paragraph shall  
21 have the same rights, remedies, privileges, immunities, powers  
22 and duties, and be subject to the same conditions,  
23 restrictions, limitations, penalties, exclusions, exemptions  
24 and definitions of terms, and employ the same modes of  
25 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
26 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions

1 therein other than the State rate of tax except that food for  
2 human consumption that is to be consumed off the premises where  
3 it is sold (other than alcoholic beverages, soft drinks, and  
4 food that has been prepared for immediate consumption) and  
5 prescription and nonprescription medicine, drugs, medical  
6 appliances, modifications to a motor vehicle for the purpose of  
7 rendering it usable by a disabled person, and insulin, urine  
8 testing materials, syringes, and needles used by diabetics, for  
9 human use, shall not be subject to tax hereunder), 2c, 3  
10 (except as to the disposition of taxes and penalties  
11 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,  
12 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'  
13 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
14 Interest Act, as fully as if those provisions were set forth  
15 herein.

16 Persons subject to any tax imposed under the authority  
17 granted in this paragraph may reimburse themselves for their  
18 seller's tax liability hereunder by separately stating the tax  
19 as an additional charge, which charge may be stated in  
20 combination, in a single amount, with State taxes that sellers  
21 are required to collect under the Use Tax Act and under  
22 subsection (e) of Section 4.03 of the Regional Transportation  
23 Authority Act, in accordance with such bracket schedules as the  
24 Department may prescribe.

25 Whenever the Department determines that a refund should be  
26 made under this paragraph to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State  
2 Comptroller, who shall cause the warrant to be drawn for the  
3 amount specified, and to the person named, in the notification  
4 from the Department. The refund shall be paid by the State  
5 Treasurer out of a county water commission tax fund established  
6 under paragraph (g) of this Section.

7 For the purpose of determining whether a tax authorized  
8 under this paragraph is applicable, a retail sale by a producer  
9 of coal or other mineral mined in Illinois is a sale at retail  
10 at the place where the coal or other mineral mined in Illinois  
11 is extracted from the earth. This paragraph does not apply to  
12 coal or other mineral when it is delivered or shipped by the  
13 seller to the purchaser at a point outside Illinois so that the  
14 sale is exempt under the Federal Constitution as a sale in  
15 interstate or foreign commerce.

16 If a tax is imposed under this subsection (b) a tax shall  
17 also be imposed under subsections (c) and (d) of this Section.

18 No tax shall be imposed or collected under this subsection  
19 on the sale of a motor vehicle in this State to a resident of  
20 another state if that motor vehicle will not be titled in this  
21 State.

22 Nothing in this paragraph shall be construed to authorize a  
23 county water commission to impose a tax upon the privilege of  
24 engaging in any business which under the Constitution of the  
25 United States may not be made the subject of taxation by this  
26 State.

1           (c) If a tax has been imposed under subsection (b), a  
2 County Water Commission Service Occupation Tax shall also be  
3 imposed upon all persons engaged, in the territory of the  
4 commission, in the business of making sales of service, who, as  
5 an incident to making the sales of service, transfer tangible  
6 personal property within the territory. The tax rate shall be  
7 1/4% of the selling price of tangible personal property so  
8 transferred within the territory. The tax imposed under this  
9 paragraph and all civil penalties that may be assessed as an  
10 incident thereof shall be collected and enforced by the State  
11 Department of Revenue. The Department shall have full power to  
12 administer and enforce this paragraph; to collect all taxes and  
13 penalties due hereunder; to dispose of taxes and penalties so  
14 collected in the manner hereinafter provided; and to determine  
15 all rights to credit memoranda arising on account of the  
16 erroneous payment of tax or penalty hereunder. In the  
17 administration of, and compliance with, this paragraph, the  
18 Department and persons who are subject to this paragraph shall  
19 have the same rights, remedies, privileges, immunities, powers  
20 and duties, and be subject to the same conditions,  
21 restrictions, limitations, penalties, exclusions, exemptions  
22 and definitions of terms, and employ the same modes of  
23 procedure, as are prescribed in Sections 1a-1, 2 (except that  
24 the reference to State in the definition of supplier  
25 maintaining a place of business in this State shall mean the  
26 territory of the commission), 2a, 3 through 3-50 (in respect to

1 all provisions therein other than the State rate of tax except  
2 that food for human consumption that is to be consumed off the  
3 premises where it is sold (other than alcoholic beverages, soft  
4 drinks, and food that has been prepared for immediate  
5 consumption) and prescription and nonprescription medicines,  
6 drugs, medical appliances, modifications to a motor vehicle for  
7 the purpose of rendering it usable by a disabled person, and  
8 insulin, urine testing materials, syringes, and needles used by  
9 diabetics, for human use, shall not be subject to tax  
10 hereunder), 4 (except that the reference to the State shall be  
11 to the territory of the commission), 5, 7, 8 (except that the  
12 jurisdiction to which the tax shall be a debt to the extent  
13 indicated in that Section 8 shall be the commission), 9 (except  
14 as to the disposition of taxes and penalties collected and  
15 except that the returned merchandise credit for this tax may  
16 not be taken against any State tax), 10, 11, 12 (except the  
17 reference therein to Section 2b of the Retailers' Occupation  
18 Tax Act), 13 (except that any reference to the State shall mean  
19 the territory of the commission), the first paragraph of  
20 Section 15, 15.5, 16, 17, 18, 19 and 20 of the Service  
21 Occupation Tax Act as fully as if those provisions were set  
22 forth herein.

23 Persons subject to any tax imposed under the authority  
24 granted in this paragraph may reimburse themselves for their  
25 serviceman's tax liability hereunder by separately stating the  
26 tax as an additional charge, which charge may be stated in

1 combination, in a single amount, with State tax that servicemen  
2 are authorized to collect under the Service Use Tax Act, and  
3 any tax for which servicemen may be liable under subsection (f)  
4 of Sec. 4.03 of the Regional Transportation Authority Act, in  
5 accordance with such bracket schedules as the Department may  
6 prescribe.

7 Whenever the Department determines that a refund should be  
8 made under this paragraph to a claimant instead of issuing a  
9 credit memorandum, the Department shall notify the State  
10 Comptroller, who shall cause the warrant to be drawn for the  
11 amount specified, and to the person named, in the notification  
12 from the Department. The refund shall be paid by the State  
13 Treasurer out of a county water commission tax fund established  
14 under paragraph (g) of this Section.

15 Nothing in this paragraph shall be construed to authorize a  
16 county water commission to impose a tax upon the privilege of  
17 engaging in any business which under the Constitution of the  
18 United States may not be made the subject of taxation by the  
19 State.

20 (d) If a tax has been imposed under subsection (b), a tax  
21 shall also imposed upon the privilege of using, in the  
22 territory of the commission, any item of tangible personal  
23 property that is purchased outside the territory at retail from  
24 a retailer, and that is titled or registered with an agency of  
25 this State's government, at a rate of 1/4% of the selling price  
26 of the tangible personal property within the territory, as



1 "selling price" is defined in the Use Tax Act. The tax shall be  
2 collected from persons whose Illinois address for titling or  
3 registration purposes is given as being in the territory. The  
4 tax shall be collected by the Department of Revenue for a  
5 county water commission. The tax must be paid to the State, or  
6 an exemption determination must be obtained from the Department  
7 of Revenue, before the title or certificate of registration for  
8 the property may be issued. The tax or proof of exemption may  
9 be transmitted to the Department by way of the State agency  
10 with which, or the State officer with whom, the tangible  
11 personal property must be titled or registered if the  
12 Department and the State agency or State officer determine that  
13 this procedure will expedite the processing of applications for  
14 title or registration.

15 The Department shall have full power to administer and  
16 enforce this paragraph; to collect all taxes, penalties and  
17 interest due hereunder; to dispose of taxes, penalties and  
18 interest so collected in the manner hereinafter provided; and  
19 to determine all rights to credit memoranda or refunds arising  
20 on account of the erroneous payment of tax, penalty or interest  
21 hereunder. In the administration of, and compliance with this  
22 paragraph, the Department and persons who are subject to this  
23 paragraph shall have the same rights, remedies, privileges,  
24 immunities, powers and duties, and be subject to the same  
25 conditions, restrictions, limitations, penalties, exclusions,  
26 exemptions and definitions of terms and employ the same modes

1 of procedure, as are prescribed in Sections 2 (except the  
2 definition of "retailer maintaining a place of business in this  
3 State"), 3 through 3-80 (except provisions pertaining to the  
4 State rate of tax, and except provisions concerning collection  
5 or refunding of the tax by retailers, and except that food for  
6 human consumption that is to be consumed off the premises where  
7 it is sold (other than alcoholic beverages, soft drinks, and  
8 food that has been prepared for immediate consumption) and  
9 prescription and nonprescription medicines, drugs, medical  
10 appliances, modifications to a motor vehicle for the purpose of  
11 rendering it usable by a disabled person, and insulin, urine  
12 testing materials, syringes, and needles used by diabetics, for  
13 human use, shall not be subject to tax hereunder), 4, 11, 12,  
14 12a, 14, 15, 19 (except the portions pertaining to claims by  
15 retailers and except the last paragraph concerning refunds),  
16 20, 21 and 22 of the Use Tax Act and Section 3-7 of the Uniform  
17 Penalty and Interest Act that are not inconsistent with this  
18 paragraph, as fully as if those provisions were set forth  
19 herein.

20 Whenever the Department determines that a refund should be  
21 made under this paragraph to a claimant instead of issuing a  
22 credit memorandum, the Department shall notify the State  
23 Comptroller, who shall cause the order to be drawn for the  
24 amount specified, and to the person named, in the notification  
25 from the Department. The refund shall be paid by the State  
26 Treasurer out of a county water commission tax fund established

1 under paragraph (g) of this Section.

2 (e) A certificate of registration issued by the State  
3 Department of Revenue to a retailer under the Retailers'  
4 Occupation Tax Act or under the Service Occupation Tax Act  
5 shall permit the registrant to engage in a business that is  
6 taxed under the tax imposed under paragraphs (b), (c) or (d) of  
7 this Section and no additional registration shall be required  
8 under the tax. A certificate issued under the Use Tax Act or  
9 the Service Use Tax Act shall be applicable with regard to any  
10 tax imposed under paragraph (c) of this Section.

11 (f) Any ordinance imposing or discontinuing any tax under  
12 this Section shall be adopted and a certified copy thereof  
13 filed with the Department on or before June 1, whereupon the  
14 Department of Revenue shall proceed to administer and enforce  
15 this Section on behalf of the county water commission as of  
16 September 1 next following the adoption and filing. Beginning  
17 January 1, 1992, an ordinance or resolution imposing or  
18 discontinuing the tax hereunder shall be adopted and a  
19 certified copy thereof filed with the Department on or before  
20 the first day of July, whereupon the Department shall proceed  
21 to administer and enforce this Section as of the first day of  
22 October next following such adoption and filing. Beginning  
23 January 1, 1993, an ordinance or resolution imposing or  
24 discontinuing the tax hereunder shall be adopted and a  
25 certified copy thereof filed with the Department on or before  
26 the first day of October, whereupon the Department shall

1 proceed to administer and enforce this Section as of the first  
2 day of January next following such adoption and filing.

3 (g) The State Department of Revenue shall, upon collecting  
4 any taxes as provided in this Section, pay the taxes over to  
5 the State Treasurer as trustee for the commission. The taxes  
6 shall be held in a trust fund outside the State Treasury. On or  
7 before the 25th day of each calendar month, the State  
8 Department of Revenue shall prepare and certify to the  
9 Comptroller of the State of Illinois the amount to be paid to  
10 the commission, which shall be the then balance in the fund,  
11 less any amount determined by the Department to be necessary  
12 for the payment of refunds. Within 10 days after receipt by the  
13 Comptroller of the certification of the amount to be paid to  
14 the commission, the Comptroller shall cause an order to be  
15 drawn for the payment for the amount in accordance with the  
16 direction in the certification.

17 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

18 Section 70. The Environmental Impact Fee Law is amended by  
19 changing Section 325 as follows:

20 (415 ILCS 125/325)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 325. Incorporation of other Acts. The provisions of  
23 Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b,  
24 6c, 8, 9, 10 and 12 (except to the extent to which the minimum

1 notice requirement for hearings conflicts with that provided  
2 for in Section 16 of the Motor Fuel Tax Law), of the Retailers'  
3 Occupation Tax Act that are not inconsistent with this Act, and  
4 Section 3-7 of the Uniform Penalty and Interest Act shall apply  
5 as far as practicable, to the subject matter of this Law to the  
6 same extent as if those provisions were included in this Law.

7 In addition, Sections 2d, 12, 12a, 13a.8, 14, 15, 16, 17,  
8 17a, and 18 of the Motor Fuel Tax Law shall apply as far as  
9 practicable, to the subject matter of this Law to the same  
10 extent as if those provisions were included in this Law.

11 References to "taxes" in these incorporated Sections shall  
12 be construed to apply to the administration, payment, and  
13 remittance of all fees under this Law.

14 (Source: P.A. 95-264, eff. 8-17-07.)

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

1	INDEX	
2	Statutes amended in order of appearance	
3	20 ILCS 2505/2505-800 new	
4	30 ILCS 105/13.3	from Ch. 127, par. 149.3
5	30 ILCS 210/8 rep.	
6	30 ILCS 500/50-11	
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9	35 ILCS 5/203	from Ch. 120, par. 2-203
10	35 ILCS 5/204	from Ch. 120, par. 2-204
11	35 ILCS 5/205	from Ch. 120, par. 2-205
12	35 ILCS 5/207	from Ch. 120, par. 2-207
13	35 ILCS 5/214	
14	35 ILCS 5/304	from Ch. 120, par. 3-304
15	35 ILCS 5/502	from Ch. 120, par. 5-502
16	35 ILCS 5/506	from Ch. 120, par. 5-506
17	35 ILCS 5/601	from Ch. 120, par. 6-601
18	35 ILCS 5/701	from Ch. 120, par. 7-701
19	35 ILCS 5/702	from Ch. 120, par. 7-702
20	35 ILCS 5/703	from Ch. 120, par. 7-703
21	35 ILCS 5/704A	
22	35 ILCS 5/804	from Ch. 120, par. 8-804
23	35 ILCS 5/909	from Ch. 120, par. 9-909
24	35 ILCS 5/911	from Ch. 120, par. 9-911
25	35 ILCS 5/1002	from Ch. 120, par. 10-1002

1	35 ILCS 5/1101	from Ch. 120, par. 11-1101
2	35 ILCS 5/1405.4	
3	35 ILCS 135/1	from Ch. 120, par. 453.31
4	35 ILCS 505/1.2	from Ch. 120, par. 417.2
5	35 ILCS 505/1.14	from Ch. 120, par. 417.14
6	35 ILCS 505/1.22	
7	35 ILCS 505/3	from Ch. 120, par. 419
8	35 ILCS 505/3a	from Ch. 120, par. 419a
9	35 ILCS 505/5	from Ch. 120, par. 421
10	35 ILCS 505/5a	from Ch. 120, par. 421a
11	35 ILCS 505/8	from Ch. 120, par. 424
12	35 ILCS 505/13	from Ch. 120, par. 429
13	35 ILCS 505/13a.4	from Ch. 120, par. 429a4
14	35 ILCS 505/13a.5	from Ch. 120, par. 429a5
15	35 ILCS 505/17a new	
16	35 ILCS 735/3-3	from Ch. 120, par. 2603-3
17	55 ILCS 5/5-1006	from Ch. 34, par. 5-1006
18	55 ILCS 5/5-1006.5	
19	55 ILCS 5/5-1006.7	
20	55 ILCS 5/5-1007	from Ch. 34, par. 5-1007
21	55 ILCS 5/5-1035 rep.	
22	65 ILCS 5/8-11-1	from Ch. 24, par. 8-11-1
23	65 ILCS 5/8-11-1.1	from Ch. 24, par. 8-11-1.1
24	65 ILCS 5/8-11-1.3	from Ch. 24, par. 8-11-1.3
25	65 ILCS 5/8-11-1.4	from Ch. 24, par. 8-11-1.4
26	65 ILCS 5/8-11-5	from Ch. 24, par. 8-11-5

1 65 ILCS 5/11-74.3-6

2 65 ILCS 5/8-11-9 rep.

3 70 ILCS 1605/30

4 70 ILCS 3615/4.03 from Ch. 111 2/3, par. 704.03

5 70 ILCS 3720/4 from Ch. 111 2/3, par. 254

6 415 ILCS 125/325