



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB2955

Introduced 2/23/2011, by Rep. Barbara Flynn Currie

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Income Tax Act to (i) include a deduction for a taxpayer who was required to add back insurance premiums in an 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, life insurance income, and withholding by partnerships, and (iii) make various administrative and technical changes. Makes other changes. Effective immediately.

LRB097 08285 HLH 48412 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Sections 203, 204, 205, 207, 214, 220, 304, 502, 506,  
6 601, 701, 702, 703, 704A, 709.5, 804, 909, 911, 1002, 1101,  
7 1402, 1405.4, and 1501 as follows:

8 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

9 Sec. 203. Base income defined.

10 (a) Individuals.

11 (1) In general. In the case of an individual, base  
12 income means an amount equal to the taxpayer's adjusted  
13 gross income for the taxable year as modified by paragraph  
14 (2).

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

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

1 Code;

2 (B) 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 adjusted gross income for the  
5 taxable year;

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

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

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

1           pursuant to subsection (b) of Section 20 of the Medical  
2           Care Savings Account Act or subsection (b) of Section  
3           20 of the Medical Care Savings Account Act of 2000;

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

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

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

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

1 equal to that subtraction modification.

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

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

1 of the Internal Revenue Code and amounts included in  
2 gross income under Section 78 of the Internal Revenue  
3 Code) with respect to the stock of the same person to  
4 whom the interest was paid, accrued, or incurred.

5 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

23 (D-18) An amount equal to the amount of intangible  
24 expenses and costs otherwise allowed as a deduction in  
25 computing base income, and that were paid, accrued, or  
26 incurred, directly or indirectly, (i) for taxable

1 years ending on or after December 31, 2004, to a  
2 foreign person who would be a member of the same  
3 unitary business group but for the fact that the  
4 foreign person's business activity outside the United  
5 States is 80% or more of that person's total business  
6 activity and (ii) for taxable years ending on or after  
7 December 31, 2008, to a person who would be a member of  
8 the same unitary business group but for the fact that  
9 the person is prohibited under Section 1501(a)(27)  
10 from being included in the unitary business group  
11 because he or she is ordinarily required to apportion  
12 business income under different subsections of Section  
13 304. The addition modification required by this  
14 subparagraph shall be reduced to the extent that  
15 dividends were included in base income of the unitary  
16 group for the same taxable year and received by the  
17 taxpayer or by a member of the taxpayer's unitary  
18 business group (including amounts included in gross  
19 income under Sections 951 through 964 of the Internal  
20 Revenue Code and amounts included in gross income under  
21 Section 78 of the Internal Revenue Code) with respect  
22 to the stock of the same person to whom the intangible  
23 expenses and costs were directly or indirectly paid,  
24 incurred, or accrued. The preceding sentence does not  
25 apply to the extent that the same dividends caused a  
26 reduction to the addition modification required under



1 Section 203(a)(2)(D-17) of this Act. As used in this  
2 subparagraph, the term "intangible expenses and costs"  
3 includes (1) expenses, losses, and costs for, or  
4 related to, the direct or indirect acquisition, use,  
5 maintenance or management, ownership, sale, exchange,  
6 or any other disposition of intangible property; (2)  
7 losses incurred, directly or indirectly, from  
8 factoring transactions or discounting transactions;  
9 (3) royalty, patent, technical, and copyright fees;  
10 (4) licensing fees; and (5) other similar expenses and  
11 costs. For purposes of this subparagraph, "intangible  
12 property" includes patents, patent applications, trade  
13 names, trademarks, service marks, copyrights, mask  
14 works, trade secrets, and similar types of intangible  
15 assets.

16 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

1 preceding sentence does not apply to the extent that  
2 the same dividends caused a reduction to the addition  
3 modification required under Section 203(a)(2)(D-17) or  
4 Section 203(a)(2)(D-18) of this Act.

5 (D-20) For taxable years beginning on or after  
6 January 1, 2002 and ending on or before December 31,  
7 2006, in the case of a distribution from a qualified  
8 tuition program under Section 529 of the Internal  
9 Revenue Code, other than (i) a distribution from a  
10 College Savings Pool created under Section 16.5 of the  
11 State Treasurer Act or (ii) a distribution from the  
12 Illinois Prepaid Tuition Trust Fund, an amount equal to  
13 the amount excluded from gross income under Section  
14 529(c)(3)(B). For taxable years beginning on or after  
15 January 1, 2007, in the case of a distribution from a  
16 qualified tuition program under Section 529 of the  
17 Internal Revenue Code, other than (i) a distribution  
18 from a College Savings Pool created under Section 16.5  
19 of the State Treasurer Act, (ii) a distribution from  
20 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
21 distribution from a qualified tuition program under  
22 Section 529 of the Internal Revenue Code that (I)  
23 adopts and determines that its offering materials  
24 comply with the College Savings Plans Network's  
25 disclosure principles and (II) has made reasonable  
26 efforts to inform in-state residents of the existence

1 of in-state qualified tuition programs by informing  
2 Illinois residents directly and, where applicable, to  
3 inform financial intermediaries distributing the  
4 program to inform in-state residents of the existence  
5 of in-state qualified tuition programs at least  
6 annually, an amount equal to the amount excluded from  
7 gross income under Section 529(c)(3)(B).

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

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

1           (D-22) For taxable years beginning on or after  
2           January 1, 2009, in the case of a nonqualified  
3           withdrawal or refund of moneys from a qualified tuition  
4           program under Section 529 of the Internal Revenue Code  
5           administered by the State that is not used for  
6           qualified expenses at an eligible education  
7           institution, an amount equal to the contribution  
8           component of the nonqualified withdrawal or refund  
9           that was previously deducted from base income under  
10          subsection (a)(2)(y) of this Section, provided that  
11          the withdrawal or refund did not result from the  
12          beneficiary's death or disability;

13          (D-23) An amount equal to the credit allowable to  
14          the taxpayer under Section 218(a) of this Act,  
15          determined without regard to Section 218(c) of this  
16          Act;

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

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

1 governmental employee was a prisoner of war or missing  
2 in action, and in respect of any compensation paid to a  
3 resident in 1971 or thereafter for annual training  
4 performed pursuant to Sections 502 and 503, Title 32,  
5 United States Code as a member of the Illinois National  
6 Guard or, beginning with taxable years ending on or  
7 after December 31, 2007, the National Guard of any  
8 other state. For taxable years ending on or after  
9 December 31, 2001, any amount included in such total in  
10 respect of any compensation (including but not limited  
11 to any compensation paid or accrued to a serviceman  
12 while a prisoner of war or missing in action) paid to a  
13 resident by reason of being a member of any component  
14 of the Armed Forces of the United States and in respect  
15 of any compensation paid or accrued to a resident who  
16 as a governmental employee was a prisoner of war or  
17 missing in action, and in respect of any compensation  
18 paid to a resident in 2001 or thereafter by reason of  
19 being a member of the Illinois National Guard or,  
20 beginning with taxable years ending on or after  
21 December 31, 2007, the National Guard of any other  
22 state. The provisions of this subparagraph (E)  
23 ~~amendatory Act of the 92nd General Assembly~~ are exempt  
24 from the provisions of Section 250;

25 (F) An amount equal to all amounts included in such  
26 total pursuant to the provisions of Sections 402(a),

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

10 (G) The valuation limitation amount;

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

14 (I) An amount equal to all amounts included in such  
15 total pursuant to the provisions of Section 111 of the  
16 Internal Revenue Code as a recovery of items previously  
17 deducted from adjusted gross income in the computation  
18 of taxable income;

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



1 zones. This subparagraph (J) is exempt from the  
2 provisions of Section 250;

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

12 (L) For taxable years ending after December 31,  
13 1983, an amount equal to all social security benefits  
14 and railroad retirement benefits included in such  
15 total pursuant to Sections 72(r) and 86 of the Internal  
16 Revenue Code;

17 (M) With the exception of any amounts subtracted  
18 under subparagraph (N), an amount equal to the sum of  
19 all amounts disallowed as deductions by (i) Sections  
20 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~  
21 ~~1954, as now or hereafter amended~~, and all amounts of  
22 expenses allocable to interest and disallowed as  
23 deductions by Section 265(1) of the Internal Revenue  
24 Code ~~of 1954, as now or hereafter amended~~; and (ii) for  
25 taxable years ending on or after August 13, 1999,  
26 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of

1 the Internal Revenue Code, plus, for taxable years  
2 ending on or after December 31, 2011, Section 45G(e)(3)  
3 of the Internal Revenue Code; the provisions of this  
4 subparagraph are exempt from the provisions of Section  
5 250;

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

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

18 (P) An amount equal to the amount of the deduction  
19 used to compute the federal income tax credit for  
20 restoration of substantial amounts held under claim of  
21 right for the taxable year pursuant to Section 1341 of  
22 the Internal Revenue Code or of any itemized deduction  
23 taken from adjusted gross income in the computation of  
24 taxable income for restoration of substantial amounts  
25 held under claim of right for the taxable year ~~of 1986~~;

26 (Q) An amount equal to any amounts included in such

1 total, received by the taxpayer as an acceleration in  
2 the payment of life, endowment or annuity benefits in  
3 advance of the time they would otherwise be payable as  
4 an indemnity for a terminal illness;

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

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

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

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

1 Act during the taxpayer's taxable years 1992 and 1993;

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

1           213 of the Internal Revenue Code of 1986 not actually  
2           deducted on the taxpayer's federal income tax return;

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

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

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

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

1 Tuition Trust Fund, except that amounts excluded from  
2 gross income under Section 529(c)(3)(C)(i) of the  
3 Internal Revenue Code shall not be considered moneys  
4 contributed under this subparagraph (Y). For purposes  
5 of this subparagraph, contributions made by an  
6 employer on behalf of an employee, or matching  
7 contributions made by an employee, shall be treated as  
8 made by the employee. This subparagraph (Y) is exempt  
9 from the provisions of Section 250;

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

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

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

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

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

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

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

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

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



1 taxpayer may claim a depreciation deduction for  
2 federal income tax purposes and for which the taxpayer  
3 was required in any taxable year to make an addition  
4 modification under subparagraph (D-15), then an amount  
5 equal to that addition modification.

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

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

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

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

1           203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
2           203(d)(2)(D-8), but not to exceed the amount of that  
3           addition modification. This subparagraph (CC) is  
4           exempt from the provisions of Section 250;

5           (DD) An amount equal to the interest income taken  
6           into account for the taxable year (net of the  
7           deductions allocable thereto) with respect to  
8           transactions with (i) a foreign person who would be a  
9           member of the taxpayer's unitary business group but for  
10          the fact that the foreign person's business activity  
11          outside the United States is 80% or more of that  
12          person's total business activity and (ii) for taxable  
13          years ending on or after December 31, 2008, to a person  
14          who would be a member of the same unitary business  
15          group but for the fact that the person is prohibited  
16          under Section 1501(a)(27) from being included in the  
17          unitary business group because he or she is ordinarily  
18          required to apportion business income under different  
19          subsections of Section 304, but not to exceed the  
20          addition modification required to be made for the same  
21          taxable year under Section 203(a)(2)(D-17) for  
22          interest paid, accrued, or incurred, directly or  
23          indirectly, to the same person. This subparagraph (DD)  
24          is exempt from the provisions of Section 250;

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

1 of the deductions allocable thereto) with respect to  
2 transactions with (i) a foreign person who would be a  
3 member of the taxpayer's unitary business group but for  
4 the fact that the foreign person's business activity  
5 outside the United States is 80% or more of that  
6 person's total business activity 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, but not to exceed the  
14 addition modification required to be made for the same  
15 taxable year under Section 203(a)(2)(D-18) for  
16 intangible expenses and costs paid, accrued, or  
17 incurred, directly or indirectly, to the same foreign  
18 person. This subparagraph (EE) is exempt from the  
19 provisions of Section 250; ~~and~~

20 (FF) An amount equal to any amount awarded to the  
21 taxpayer during the taxable year by the Court of Claims  
22 under subsection (c) of Section 8 of the Court of  
23 Claims Act for time unjustly served in a State prison.  
24 This subparagraph (FF) is exempt from the provisions of  
25 Section 250; ~~and~~.

26 (GG) For taxable years ending on or after December

1           31, 2011, in the case of a taxpayer who was required to  
2           add back any insurance premiums under Section  
3           203(a)(2)(D-19), such taxpayer may elect to subtract  
4           that part of a reimbursement received from the  
5           insurance company equal to the amount of the expense or  
6           loss (including expenses incurred by the insurance  
7           company) that would have been taken into account as a  
8           deduction for federal income tax purposes if the  
9           expense or loss had been uninsured. If a taxpayer makes  
10           the election provided for by this subparagraph (GG),  
11           the insurer to which the premiums were paid must add  
12           back to income the amount subtracted by the taxpayer  
13           pursuant to this subparagraph (GG). This subparagraph  
14           (GG) is exempt from the provisions of Section 250.

15           (b) Corporations.

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

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

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

1 income in the computation of taxable income;

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

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

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

1 year, with the following limitations applied in the  
2 order that they are listed:

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

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

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

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

1 credit under subsection (l) of Section 201;

2 (E-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;

7 (E-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 (E-10), then  
11 an amount equal to the aggregate amount of the  
12 deductions taken in all taxable years under  
13 subparagraph (T) 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 (T), 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 (E-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 the foreign person's business activity outside  
5 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           (E-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(b)(2)(E-12) of  
22 this Act. As used in this subparagraph, the term  
23 "intangible expenses and costs" includes (1) expenses,  
24 losses, and costs for, or related to, the direct or  
25 indirect acquisition, use, maintenance or management,  
26 ownership, sale, exchange, or any other disposition of

1 intangible property; (2) losses incurred, directly or  
2 indirectly, from factoring transactions or discounting  
3 transactions; (3) royalty, patent, technical, and  
4 copyright fees; (4) licensing fees; and (5) other  
5 similar expenses and costs. For purposes of this  
6 subparagraph, "intangible property" includes patents,  
7 patent applications, trade names, trademarks, service  
8 marks, copyrights, mask works, trade secrets, and  
9 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 (E-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(b)(2)(E-12) or  
24 Section 203(b)(2)(E-13) of this Act;

25 (E-15) For taxable years beginning after December  
26 31, 2008, any deduction for dividends paid by a captive

1 real estate investment trust that is allowed to a real  
2 estate investment trust under Section 857(b)(2)(B) of  
3 the Internal Revenue Code for dividends paid;

4 (E-16) An amount equal to the credit allowable to  
5 the taxpayer under Section 218(a) of this Act,  
6 determined without regard to Section 218(c) of this  
7 Act;

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, 2011,  
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) taken  
7 into account for the taxable year with respect to a  
8 transaction with a taxpayer that is required to make an  
9 addition modification with respect to such transaction  
10 under Section 203(a)(2)(D-19), Section  
11 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
12 203(d)(2)(D-9), but not to exceed the amount of that  
13 addition modification. This subparagraph (V) is exempt  
14 from the provisions of Section 250;

15 (W) 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 that 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(b)(2)(E-12) for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, to the same person. This subparagraph (W)  
8 is exempt from the provisions of Section 250; ~~and~~

9 (X) 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(b)(2)(E-13) for  
26 intangible expenses and costs paid, accrued, or

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

4 (Y) For taxable years ending on or after December  
5 31, 2011, in the case of a taxpayer who was required to  
6 add back any insurance premiums under Section  
7 203(b) (2) (E-14), such taxpayer may elect to subtract  
8 that part of a reimbursement received from the  
9 insurance company equal to the amount of the expense or  
10 loss (including expenses incurred by the insurance  
11 company) that would have been taken into account as a  
12 deduction for federal income tax purposes if the  
13 expense or loss had been uninsured. If a taxpayer makes  
14 the election provided for by this subparagraph (Y), the  
15 insurer to which the premiums were paid must add back  
16 to income the amount subtracted by the taxpayer  
17 pursuant to this subparagraph (Y). This subparagraph  
18 (Y) is exempt from the provisions of Section 250; and

19 (Z) The difference between the nondeductible  
20 controlled foreign corporation dividends under Section  
21 965(e) (3) of the Internal Revenue Code over the taxable  
22 income of the taxpayer, computed without regard to  
23 Section 965(e) (2) (A) of the Internal Revenue Code, and  
24 without regard to any net operating loss deduction.  
25 This subparagraph (Z) is exempt from the provisions of  
26 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, 2011, shall mean the gross investment  
5 income for the taxable year and, for tax years ending on or  
6 after December 31, 2011, 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 (G-15) An amount equal to the credit allowable to  
26 the taxpayer under Section 218(a) of this Act,

1           determined without regard to Section 218(c) of this  
2           Act;

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

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

16                   (I) The valuation limitation amount;

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

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

1 exempts income derived from bonds or other obligations  
2 from the tax imposed under this Act, the amount  
3 exempted shall be the interest net of bond premium  
4 amortization;

5 (L) With the exception of any amounts subtracted  
6 under subparagraph (K), an amount equal to the sum of  
7 all amounts disallowed as deductions by (i) Sections  
8 171(a) (2) and 265(a) (2) of the Internal Revenue Code,~~7~~  
9 ~~as now or hereafter amended~~, and all amounts of  
10 expenses allocable to interest and disallowed as  
11 deductions by Section 265(1) of the Internal Revenue  
12 Code ~~of 1954, as now or hereafter amended~~; and (ii) for  
13 taxable years ending on or after August 13, 1999,  
14 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
15 the Internal Revenue Code, plus, (iii) for taxable  
16 years ending on or after December 31, 2011, Section  
17 45G(e) (3) of the Internal Revenue Code; the provisions  
18 of this subparagraph are exempt from the provisions of  
19 Section 250;

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



1 Zone or Zones or a River Edge Redevelopment Zone or  
2 zones. This subparagraph (M) is exempt from the  
3 provisions of Section 250;

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

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

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

21 (Q) For taxable year 1999 and thereafter, an amount  
22 equal to the amount of any (i) distributions, to the  
23 extent includible in gross income for federal income  
24 tax purposes, made to the taxpayer because of his or  
25 her status as a victim of persecution for racial or  
26 religious reasons by Nazi Germany or any other Axis

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

1 of Section 250;

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

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

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

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

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

26 (ii) for property on which a bonus

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

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

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

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

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

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

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

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

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

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

1 required to apportion business income under different  
2 subsections of Section 304, but not to exceed the  
3 addition modification required to be made for the same  
4 taxable year under Section 203(c)(2)(G-13) for  
5 intangible expenses and costs paid, accrued, or  
6 incurred, directly or indirectly, to the same foreign  
7 person. This subparagraph (V) is exempt from the  
8 provisions of Section 250;

9 (W) in the case of an estate, an amount equal to  
10 all amounts included in such total pursuant to the  
11 provisions of Section 111 of the Internal Revenue Code  
12 as a recovery of items previously deducted by the  
13 decendent from adjusted gross income in the computation  
14 of taxable income. This subparagraph (W) is exempt from  
15 Section 250;

16 (X) an amount equal to the refund included in such  
17 total of any tax deducted for federal income tax  
18 purposes, to the extent that deduction was added back  
19 under subparagraph (F). This subparagraph (X) is  
20 exempt from the provisions of Section 250; and

21 (Y) For taxable years ending on or after December  
22 31, 2011, in the case of a taxpayer who was required to  
23 add back any insurance premiums under Section  
24 203(c)(2)(G-14), such taxpayer may elect to subtract  
25 that part of a reimbursement received from the  
26 insurance company equal to the amount of the expense or

1           loss (including expenses incurred by the insurance  
2           company) that would have been taken into account as a  
3           deduction for federal income tax purposes if the  
4           expense or loss had been uninsured. If a taxpayer makes  
5           the election provided for by this subparagraph (Y), the  
6           insurer to which the premiums were paid must add back  
7           to income the amount subtracted by the taxpayer  
8           pursuant to this subparagraph (Y). This subparagraph  
9           (Y) is exempt from the provisions of Section 250.

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

17           (d) Partnerships.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

10 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

1 under Section 404 of this Act; and

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

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

21 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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



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

10 (D-10) An amount equal to the credit allowable to  
11 the taxpayer under Section 218(a) of this Act,  
12 determined without regard to Section 218(c) of this  
13 Act;

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

16 (E) The valuation limitation amount;

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

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

1 bonds or other obligations from the tax imposed under  
2 this Act, the amount exempted shall be the interest net  
3 of bond premium amortization;

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

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

17 (J) With the exception of any amounts subtracted  
18 under subparagraph (G), an amount equal to the sum of  
19 all amounts disallowed as deductions by (i) Sections  
20 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~  
21 ~~1954, as now or hereafter amended,~~ and all amounts of  
22 expenses allocable to interest and disallowed as  
23 deductions by Section 265(1) of the Internal Revenue  
24 Code, ~~as now or hereafter amended;~~ and (ii) for taxable  
25 years ending on or after August 13, 1999, Sections  
26 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the

1 Internal Revenue Code, plus, (iii) for taxable years  
2 ending on or after December 31, 2011, Section 45G(e)(3)  
3 of the Internal Revenue Code; the provisions of this  
4 subparagraph are exempt from the provisions of Section  
5 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 was required in any taxable year to make an addition  
2 modification under subparagraph (D-5), then an amount  
3 equal to that addition modification.

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

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

9 (Q) The amount of (i) any interest income (net of  
10 the deductions allocable thereto) taken into account  
11 for the taxable year with respect to a transaction with  
12 a taxpayer that is required to make an addition  
13 modification with respect to such transaction under  
14 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
15 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
16 the amount of such addition modification and (ii) any  
17 income from intangible property (net of the deductions  
18 allocable thereto) taken into account for the taxable  
19 year with respect to a transaction with a taxpayer that  
20 is required to make an addition modification with  
21 respect to such transaction under Section  
22 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
23 203(d)(2)(D-8), but not to exceed the amount of such  
24 addition modification. This subparagraph (Q) is exempt  
25 from Section 250;

26 (R) An amount equal to the interest income taken

1           into account for the taxable year (net of the  
2           deductions allocable thereto) with respect to  
3           transactions with (i) a foreign person who would be a  
4           member of the taxpayer's unitary business group but for  
5           the fact that the foreign person's business activity  
6           outside the United States is 80% or more of that  
7           person's total business activity and (ii) for taxable  
8           years ending on or after December 31, 2008, to a person  
9           who would be a member of the same unitary business  
10          group but for the fact that the person is prohibited  
11          under Section 1501(a)(27) from being included in the  
12          unitary business group because he or she is ordinarily  
13          required to apportion business income under different  
14          subsections of Section 304, but not to exceed the  
15          addition modification required to be made for the same  
16          taxable year under Section 203(d)(2)(D-7) for interest  
17          paid, accrued, or incurred, directly or indirectly, to  
18          the same person. This subparagraph (R) is exempt from  
19          Section 250; ~~and~~

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

1 person's total business activity and (ii) for taxable  
2 years ending on or after December 31, 2008, to a person  
3 who would be a member of the same unitary business  
4 group but for the fact that the person is prohibited  
5 under Section 1501(a)(27) from being included in the  
6 unitary business group because he or she is ordinarily  
7 required to apportion business income under different  
8 subsections of Section 304, but not to exceed the  
9 addition modification required to be made for the same  
10 taxable year under Section 203(d)(2)(D-8) for  
11 intangible expenses and costs paid, accrued, or  
12 incurred, directly or indirectly, to the same person.  
13 This subparagraph (S) is exempt from Section 250; and -  
14 (T) For taxable years ending on or after December  
15 31, 2011, in the case of a taxpayer who was required to  
16 add back any insurance premiums under Section  
17 203(d)(2)(D-9), such taxpayer may elect to subtract  
18 that part of a reimbursement received from the  
19 insurance company equal to the amount of the expense or  
20 loss (including expenses incurred by the insurance  
21 company) that would have been taken into account as a  
22 deduction for federal income tax purposes if the  
23 expense or loss had been uninsured. If a taxpayer makes  
24 the election provided for by this subparagraph (T), the  
25 insurer to which the premiums were paid must add back  
26 to income the amount subtracted by the taxpayer



1           pursuant to this subparagraph (T). This subparagraph  
2           (T) is exempt from the provisions of Section 250.

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

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

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

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

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

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

25 (C) Regulated investment companies. In the case of  
26 a regulated investment company subject to the tax

1 imposed by Section 852 of the Internal Revenue Code,  
2 investment company taxable income;

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

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

19 (F) Cooperatives. In the case of a cooperative  
20 corporation or association, the taxable income of such  
21 organization determined in accordance with the  
22 provisions of Section 1381 through 1388 of the Internal  
23 Revenue Code, but without regard to the prohibition  
24 against offsetting losses from patronage activities  
25 against income from nonpatronage activities; except  
26 that a cooperative corporation or association may make

1 an election to follow its federal income tax treatment  
2 of patronage losses and nonpatronage losses. In the  
3 event such election is made, such losses shall be  
4 computed and carried over in a manner consistent with  
5 subsection (a) of Section 207 of this Act and  
6 apportioned by the apportionment factor reported by  
7 the cooperative on its Illinois income tax return filed  
8 for the taxable year in which the losses are incurred.  
9 The election shall be effective for all taxable years  
10 with original returns due on or after the date of the  
11 election. In addition, the cooperative may file an  
12 amended return or returns, as allowed under this Act,  
13 to provide that the election shall be effective for  
14 losses incurred or carried forward for taxable years  
15 occurring prior to the date of the election. Once made,  
16 the election may only be revoked upon approval of the  
17 Director. The Department shall adopt rules setting  
18 forth requirements for documenting the elections and  
19 any resulting Illinois net loss and the standards to be  
20 used by the Director in evaluating requests to revoke  
21 elections. Public Act 96-932 ~~This amendatory Act of the~~  
22 ~~96th General Assembly~~ is declaratory of existing law;

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

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

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

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

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

11 (f) Valuation limitation amount.

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

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

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

1 such gain included in the amount determined under  
2 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

26 (C) The Department shall prescribe such

1 regulations as may be necessary to carry out the  
2 purposes of this paragraph.

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

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

15 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,  
16 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;  
17 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;  
18 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.  
19 8-14-09; 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935,  
20 eff. 6-21-10; 96-1214, eff. 7-22-10; revised 9-16-10.)

21 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

22 Sec. 204. Standard Exemption.

23 (a) Allowance of exemption. In computing net income under



1 this Act, there shall be allowed as an exemption the sum of the  
2 amounts determined under subsections (b), (c) and (d),  
3 multiplied by a fraction the numerator of which is the amount  
4 of the taxpayer's base income allocable to this State for the  
5 taxable year and the denominator of which is the taxpayer's  
6 total base income for the taxable year.

7 (b) Basic amount. For the purpose of subsection (a) of this  
8 Section, except as provided by subsection (a) of Section 205  
9 and in this subsection, each taxpayer shall be allowed a basic  
10 amount of \$1000, except that for corporations the basic amount  
11 shall be zero for tax years ending on or after December 31,  
12 2003, and for individuals the basic amount shall be:

13 (1) for taxable years ending on or after December 31,  
14 1998 and prior to December 31, 1999, \$1,300;

15 (2) for taxable years ending on or after December 31,  
16 1999 and prior to December 31, 2000, \$1,650;

17 (3) for taxable years ending on or after December 31,  
18 2000, \$2,000.

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

24 (c) Additional amount for individuals. In the case of an  
25 individual taxpayer, there shall be allowed for the purpose of  
26 subsection (a), in addition to the basic amount provided by

1 subsection (b), an additional exemption equal to the basic  
2 amount for each exemption in excess of one allowable to such  
3 individual taxpayer for the taxable year under Section 151 of  
4 the Internal Revenue Code.

5 (d) Additional exemptions for an individual taxpayer and  
6 his or her spouse. In the case of an individual taxpayer and  
7 his or her spouse, he or she shall each be allowed additional  
8 exemptions as follows:

9 (1) Additional exemption for taxpayer or spouse 65  
10 years of age or older.

11 (A) For taxpayer. An additional exemption of  
12 \$1,000 for the taxpayer if he or she has attained the  
13 age of 65 before the end of the taxable year.

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

22 (2) Additional exemption for blindness of taxpayer or  
23 spouse.

24 (A) For taxpayer. An additional exemption of  
25 \$1,000 for the taxpayer if he or she is blind at the  
26 end of the taxable year.

1           (B) For spouse when a joint return is not filed. An  
2 additional exemption of \$1,000 for the spouse of the  
3 taxpayer if a separate return is made by the taxpayer,  
4 and if the spouse is blind and, for the calendar year  
5 in which the taxable year of the taxpayer begins, has  
6 no gross income and is not the dependent of another  
7 taxpayer. For purposes of this paragraph, the  
8 determination of whether the spouse is blind shall be  
9 made as of the end of the taxable year of the taxpayer;  
10 except that if the spouse dies during such taxable year  
11 such determination shall be made as of the time of such  
12 death.

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

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

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

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

1 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

2 Sec. 205. Exempt organizations.

3 (a) Charitable, etc. organizations. The base income of an  
4 organization which is exempt from the federal income tax by  
5 reason ~~of Section 501(a)~~ of the Internal Revenue Code shall not  
6 be determined under section 203 of this Act, but shall be its  
7 unrelated business taxable income as determined under section  
8 512 of the Internal Revenue Code, without any deduction for the  
9 tax imposed by this Act. The standard exemption provided by  
10 section 204 of this Act shall not be allowed in determining the  
11 net income of an organization to which this subsection applies.

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

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

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

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

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

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

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

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

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

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

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

14           Sec. 207. Net Losses.

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

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

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

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

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

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

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

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

1           deductions for carryback or carryover of such loss  
2           allowable for each of the prior taxable years to which  
3           such loss may be carried.

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

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



1 excluded from gross income under Section 108(a) of the Internal  
2 Revenue Code for the taxable year. The reduction required under  
3 this subsection (c) shall be made after the determination of  
4 Illinois net income for the taxable year in which the  
5 indebtedness is discharged.

6 (d) In the case of a corporation (other than a Subchapter S  
7 corporation), no carryover deduction shall be allowed under  
8 this Section for any taxable year ending after December 31,  
9 2010 and prior to December 31, 2014; provided that, for  
10 purposes of determining the taxable years to which a net loss  
11 may be carried under subsection (a) of this Section, no taxable  
12 year for which a deduction is disallowed under this subsection  
13 shall be counted.

14 (e) In the case of a residual interest holder in a real  
15 estate mortgage investment conduit subject to Section 860E of  
16 the Internal Revenue Code, the net loss in subsection (a) shall  
17 be equal to:

18 (1) the amount computed under subsection (a), without  
19 regard to this subsection (e), or if that amount is  
20 positive, zero; minus an amount equal to

21 (2) the amount computed under subsection (a), without  
22 regard to this subsection (e), minus the amount that would  
23 be computed under subsection (a) if the taxpayer's federal  
24 taxable income were computed without regard to Section 860E  
25 of the Internal Revenue Code and without regard to this  
26 subsection (e).

1           The modification in this subsection (e) is exempt from the  
2           provisions of Section 250.

3           (Source: P.A. 95-233, eff. 8-16-07; 96-1496, eff. 1-13-11.)

4           (35 ILCS 5/214)

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

6           (a) Beginning with taxable years ending on or after  
7           December 31, 2001 and until the taxable year ending on December  
8           31, 2016, a taxpayer who makes a donation under Section 7.28 of  
9           the Illinois Housing Development Act is entitled to a credit  
10           against the tax imposed by subsections (a) and (b) of Section  
11           201 in an amount equal to 50% of the value of the donation.  
12           Partners, shareholders of subchapter S corporations, and  
13           owners of limited liability companies (if the limited liability  
14           company is treated as a partnership for purposes of federal and  
15           State income taxation) are entitled to a credit under this  
16           Section to be determined in accordance with the determination  
17           of income and distributive share of income under Sections 702  
18           and 703 and subchapter S of the Internal Revenue Code. Persons  
19           or entities not subject to the tax imposed by subsections (a)  
20           and (b) of Section 201 and who make a donation under Section  
21           7.28 of the Illinois Housing Development Act are entitled to a  
22           credit as described in this subsection and may transfer that  
23           credit as described in subsection (c).

24           (b) If the amount of the credit exceeds the tax liability  
25           for the year, the excess may be carried forward and applied to

1 the tax liability of the 5 taxable years following the excess  
2 credit year. The tax credit shall be applied to the earliest  
3 year for which there is a tax liability. If there are credits  
4 for more than one year that are available to offset a  
5 liability, the earlier credit shall be applied first.

6 (c) The transfer of the tax credit allowed under this  
7 Section may be made (i) to the purchaser of land that has been  
8 designated solely for affordable housing projects in  
9 accordance with the Illinois Housing Development Act or (ii) to  
10 another donor who has also made a donation in accordance with  
11 Section 7.28 of the Illinois Housing Development Act.

12 (d) A taxpayer claiming the credit provided by this Section  
13 must maintain and record any information that the Department  
14 may require by regulation regarding the project for which the  
15 credit is claimed. When claiming the credit provided by this  
16 Section, the taxpayer must provide information regarding the  
17 taxpayer's donation to the project under the Illinois Housing  
18 Development Act.

19 (Source: P.A. 96-1276, eff. 7-26-10.)

20 (35 ILCS 5/220)

21 Sec. 220. Angel investment credit.

22 (a) As used in this Section:

23 "Applicant" means a corporation, partnership, limited  
24 liability company, or a natural person that makes an investment  
25 in a qualified new business venture. The term "applicant" does

1 not include a corporation, partnership, limited liability  
2 company, or a natural person who has a direct or indirect  
3 ownership interest of at least 51% in the profits, capital, or  
4 value of the investment or a related member.

5 "Claimant" means an ~~a~~ applicant certified by the Department  
6 who files a claim for a credit under this Section.

7 "Department" means the Department of Commerce and Economic  
8 Opportunity.

9 "Qualified new business venture" means a business that is  
10 registered with the Department under this Section.

11 "Related member" means a person that, with respect to the  
12 investment, is any one of the following:

13 (1) An individual, if the individual and the members of  
14 the individual's family (as defined in Section 318 of the  
15 Internal Revenue Code) own directly, indirectly,  
16 beneficially, or constructively, in the aggregate, at  
17 least 50% of the value of the outstanding profits, capital,  
18 stock, or other ownership interest in the applicant.

19 (2) A partnership, estate, or trust and any partner or  
20 beneficiary, if the partnership, estate, or trust and its  
21 partners or beneficiaries own directly, indirectly,  
22 beneficially, or constructively, in the aggregate, at  
23 least 50% of the profits, capital, stock, or other  
24 ownership interest in the applicant.

25 (3) A corporation, and any party related to the  
26 corporation in a manner that would require an attribution

1 of stock from the corporation under the attribution rules  
2 of Section 318 of the Internal Revenue Code, if the  
3 applicant and any other related member own, in the  
4 aggregate, directly, indirectly, beneficially, or  
5 constructively, at least 50% of the value of the  
6 corporation's outstanding stock.

7 (4) A corporation and any party related to that  
8 corporation in a manner that would require an attribution  
9 of stock from the corporation to the party or from the  
10 party to the corporation under the attribution rules of  
11 Section 318 of the Internal Revenue Code, if the  
12 corporation and all such related parties own, in the  
13 aggregate, at least 50% of the profits, capital, stock, or  
14 other ownership interest in the applicant.

15 (5) A person to or from whom there is attribution of  
16 stock ownership in accordance with Section 1563(e) of the  
17 Internal Revenue Code, except that for purposes of  
18 determining whether a person is a related member under this  
19 paragraph, "20%" shall be substituted for "5%" whenever  
20 "5%" appears in Section 1563(e) of the Internal Revenue  
21 Code.

22 (b) For taxable years beginning after December 31, 2010,  
23 and ending on or before December 31, 2016, subject to the  
24 limitations provided in this Section, a claimant may claim, as  
25 a credit against the tax imposed under subsections (a) and (b)  
26 of Section 201 of this Act, an amount equal to 25% of the

1 claimant's investment made directly in a qualified new business  
2 venture. The credit under this Section may not exceed the  
3 taxpayer's Illinois income tax liability for the taxable year.  
4 If the amount of the credit exceeds the tax liability for the  
5 year, the excess may be carried forward and applied to the tax  
6 liability of the 5 taxable years following the excess credit  
7 year. The credit shall be applied to the earliest year for  
8 which there is a tax liability. If there are credits from more  
9 than one tax year that are available to offset a liability, the  
10 earlier credit shall be applied first. In the case of a  
11 partnership or Subchapter S Corporation, the credit is allowed  
12 to the partners or shareholders in accordance with the  
13 determination of income and distributive share of income under  
14 Sections 702 and 704 and Subchapter S of the Internal Revenue  
15 Code.

16 (c) The maximum amount of an applicant's investment that  
17 may be used as the basis for a credit under this Section is  
18 \$2,000,000 for each investment made directly in a qualified new  
19 business venture.

20 (d) The Department shall implement a program to certify an  
21 applicant for an angel investment credit. Upon satisfactory  
22 review, the Department shall issue a tax credit certificate  
23 stating the amount of the tax credit to which the applicant is  
24 entitled. The Department shall annually certify that the  
25 claimant's investment has been made and remains in the  
26 qualified new business venture for no less than 3 years. If an

1 investment for which a claimant is allowed a credit under  
2 subsection (b) is held by the claimant for less than 3 years,  
3 or, if within that period of time the qualified new business  
4 venture is moved from the State of Illinois, the claimant shall  
5 pay to the Department of Revenue, in the manner prescribed by  
6 the Department of Revenue, the amount of the credit that the  
7 claimant received related to the investment.

8 (e) The Department shall implement a program to register  
9 qualified new business ventures for purposes of this Section. A  
10 business desiring registration shall submit an application to  
11 the Department in each taxable year for which the business  
12 desires registration. The Department may register the business  
13 only if the business satisfies all of the following conditions:

14 (1) it has its headquarters in this State;

15 (2) at least 51% of the employees employed by the  
16 business are employed in this State;

17 (3) it has the potential for increasing jobs in this  
18 State, increasing capital investment in this State, or  
19 both, and either of the following apply:

20 (A) it is principally engaged in innovation in any  
21 of the following: manufacturing; biotechnology;  
22 nanotechnology; communications; agricultural sciences;  
23 clean energy creation or storage technology;  
24 processing or assembling products, including medical  
25 devices, pharmaceuticals, computer software, computer  
26 hardware, semiconductors, other innovative technology

1 products, or other products that are produced using  
2 manufacturing methods that are enabled by applying  
3 proprietary technology; or providing services that are  
4 enabled by applying proprietary technology; or

5 (B) it is undertaking pre-commercialization  
6 activity related to proprietary technology that  
7 includes conducting research, developing a new product  
8 or business process, or developing a service that is  
9 principally reliant on applying proprietary  
10 technology;

11 (4) it is not principally engaged in real estate  
12 development, insurance, banking, lending, lobbying,  
13 political consulting, professional services provided by  
14 attorneys, accountants, business consultants, physicians,  
15 or health care consultants, wholesale or retail trade,  
16 leisure, hospitality, transportation, or construction,  
17 except construction of power production plants that derive  
18 energy from a renewable energy resource, as defined in  
19 Section 1 of the Illinois Power Agency Act;

20 (5) it has fewer than 100 employees;

21 (6) it has been in operation in Illinois for not more  
22 than 10 consecutive years prior to the year of  
23 certification; and

24 (7) it has received not more than (i) \$10,000,000 in  
25 aggregate private equity investment in cash or (ii)  
26 \$4,000,000 in investments that qualified for tax credits



1 under this Section.

2 (f) The Department, in consultation with the Department of  
3 Revenue, shall adopt rules to administer this Section. The  
4 aggregate amount of the tax credits that may be claimed under  
5 this Section for investments made in qualified new business  
6 ventures shall be limited at \$10,000,000 per calendar year.

7 (g) A claimant may not sell or otherwise transfer a credit  
8 awarded under this Section to another person.

9 (h) On or before March 1 of each year, the Department shall  
10 report to the Governor and to the General Assembly on the tax  
11 credit certificates awarded under this Section for the prior  
12 calendar year.

13 (1) This report must include, for each tax credit  
14 certificate awarded:

15 (A) the name of the claimant and the amount of  
16 credit awarded or allocated to that claimant;

17 (B) the name and address of the qualified new  
18 business venture that received the investment giving  
19 rise to the credit and the county in which the  
20 qualified new business venture is located; and

21 (C) the date of approval by the Department of the  
22 applications for the tax credit certificate.

23 (2) The report must also include:

24 (A) the total number of applicants and amount for  
25 tax credit certificates awarded under this Section in  
26 the prior calendar year;

1 (B) the total number of applications and amount for  
2 which tax credit certificates were issued in the prior  
3 calendar year; and

4 (C) the total tax credit certificates and amount  
5 authorized under this Section for all calendar years.

6 (Source: P.A. 96-939, eff. 1-1-11.)

7 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

1 compute their apportionment factor by weighting their  
2 property, payroll, and sales factors as provided in subsection  
3 (h) of this Section.

4 (1) Property factor.

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

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

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

24 (2) Payroll factor.

25 (A) The payroll factor is a fraction, the numerator of  
26 which is the total amount paid in this State during the

1 taxable year by the person for compensation, and the  
2 denominator of which is the total compensation paid  
3 everywhere during the taxable year.

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

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

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

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

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

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

1           this State performing services for the team in any  
2           manner during the taxable year bears to the total  
3           number of duty days spent both within and without this  
4           State during the taxable year.

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

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

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

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

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

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

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

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

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

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

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

1 in Illinois, shall not be considered duty days  
2 spent in this State. All days on the disabled  
3 list, however, are considered to be included in  
4 total duty days spent both within and without  
5 this State.

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

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

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

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



1 payments not related to services performed for the  
2 team.

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

20 (3) Sales factor.

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

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

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

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

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

23           (i) Gross receipts from the licensing, sale, or  
24 other disposition of a patent, copyright, trademark,  
25 or similar item of intangible personal property, other  
26 than gross receipts governed by paragraph (B-7) of this

1 item (3), are in this State to the extent the item is  
2 utilized in this State during the year the gross  
3 receipts are included in gross income.

4 (ii) Place of utilization.

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

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

1 states in which the copyright is utilized.

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

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

15 (B-2) Gross receipts from the license, sale, or other  
16 disposition of patents, copyrights, trademarks, and  
17 similar items of intangible personal property, other than  
18 gross receipts governed by paragraph (B-7) of this item  
19 (3), may be included in the numerator or denominator of the  
20 sales factor only if gross receipts from licenses, sales,  
21 or other disposition of such items comprise more than 50%  
22 of the taxpayer's total gross receipts included in gross  
23 income during the tax year and during each of the 2  
24 immediately preceding tax years; provided that, when a  
25 taxpayer is a member of a unitary business group, such  
26 determination shall be made on the basis of the gross

1 receipts of the entire unitary business group.

2 (B-5) For taxable years ending on or after December 31,  
3 2008, except as provided in subsections (ii) through (vii),  
4 receipts from the sale of telecommunications service or  
5 mobile telecommunications service are in this State if the  
6 customer's service address is in this State.

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

9 "Ancillary services" means services that are  
10 associated with or incidental to the provision of  
11 "telecommunications services", including but not  
12 limited to "detailed telecommunications billing",  
13 "directory assistance", "vertical service", and "voice  
14 mail services".

15 "Air-to-Ground Radiotelephone service" means a  
16 radio service, as that term is defined in 47 CFR 22.99,  
17 in which common carriers are authorized to offer and  
18 provide radio telecommunications service for hire to  
19 subscribers in aircraft.

20 "Call-by-call Basis" means any method of charging  
21 for telecommunications services where the price is  
22 measured by individual calls.

23 "Communications Channel" means a physical or  
24 virtual path of communications over which signals are  
25 transmitted between or among customer channel  
26 termination points.

1 "Conference bridging service" means an "ancillary  
2 service" that links two or more participants of an  
3 audio or video conference call and may include the  
4 provision of a telephone number. "Conference bridging  
5 service" does not include the "telecommunications  
6 services" used to reach the conference bridge.

7 "Customer Channel Termination Point" means the  
8 location where the customer either inputs or receives  
9 the communications.

10 "Detailed telecommunications billing service"  
11 means an "ancillary service" of separately stating  
12 information pertaining to individual calls on a  
13 customer's billing statement.

14 "Directory assistance" means an "ancillary  
15 service" of providing telephone number information,  
16 and/or address information.

17 "Home service provider" means the facilities based  
18 carrier or reseller with which the customer contracts  
19 for the provision of mobile telecommunications  
20 services.

21 "Mobile telecommunications service" means  
22 commercial mobile radio service, as defined in Section  
23 20.3 of Title 47 of the Code of Federal Regulations as  
24 in effect on June 1, 1999.

25 "Place of primary use" means the street address  
26 representative of where the customer's use of the

1 telecommunications service primarily occurs, which  
2 must be the residential street address or the primary  
3 business street address of the customer. In the case of  
4 mobile telecommunications services, "place of primary  
5 use" must be within the licensed service area of the  
6 home service provider.

7 "Post-paid telecommunication service" means the  
8 telecommunications service obtained by making a  
9 payment on a call-by-call basis either through the use  
10 of a credit card or payment mechanism such as a bank  
11 card, travel card, credit card, or debit card, or by  
12 charge made to a telephone number which is not  
13 associated with the origination or termination of the  
14 telecommunications service. A post-paid calling  
15 service includes telecommunications service, except a  
16 prepaid wireless calling service, that would be a  
17 prepaid calling service except it is not exclusively a  
18 telecommunication service.

19 "Prepaid telecommunication service" means the  
20 right to access exclusively telecommunications  
21 services, which must be paid for in advance and which  
22 enables the origination of calls using an access number  
23 or authorization code, whether manually or  
24 electronically dialed, and that is sold in  
25 predetermined units or dollars of which the number  
26 declines with use in a known amount.

1           "Prepaid Mobile telecommunication service" means a  
2 telecommunications service that provides the right to  
3 utilize mobile wireless service as well as other  
4 non-telecommunication services, including but not  
5 limited to ancillary services, which must be paid for  
6 in advance that is sold in predetermined units or  
7 dollars of which the number declines with use in a  
8 known amount.

9           "Private communication service" means a  
10 telecommunication service that entitles the customer  
11 to exclusive or priority use of a communications  
12 channel or group of channels between or among  
13 termination points, regardless of the manner in which  
14 such channel or channels are connected, and includes  
15 switching capacity, extension lines, stations, and any  
16 other associated services that are provided in  
17 connection with the use of such channel or channels.

18           "Service address" means:

19           (a) The location of the telecommunications  
20 equipment to which a customer's call is charged and  
21 from which the call originates or terminates,  
22 regardless of where the call is billed or paid;

23           (b) If the location in line (a) is not known,  
24 service address means the origination point of the  
25 signal of the telecommunications services first  
26 identified by either the seller's



1 telecommunications system or in information  
2 received by the seller from its service provider  
3 where the system used to transport such signals is  
4 not that of the seller; and

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

8 "Telecommunications service" means the electronic  
9 transmission, conveyance, or routing of voice, data,  
10 audio, video, or any other information or signals to a  
11 point, or between or among points. The term  
12 "telecommunications service" includes such  
13 transmission, conveyance, or routing in which computer  
14 processing applications are used to act on the form,  
15 code or protocol of the content for purposes of  
16 transmission, conveyance or routing without regard to  
17 whether such service is referred to as voice over  
18 Internet protocol services or is classified by the  
19 Federal Communications Commission as enhanced or value  
20 added. "Telecommunications service" does not include:

21 (a) Data processing and information services  
22 that allow data to be generated, acquired, stored,  
23 processed, or retrieved and delivered by an  
24 electronic transmission to a purchaser when such  
25 purchaser's primary purpose for the underlying  
26 transaction is the processed data or information;

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

3 (c) Tangible personal property;

4 (d) Advertising, including but not limited to  
5 directory advertising.

6 (e) Billing and collection services provided  
7 to third parties;

8 (f) Internet access service;

9 (g) Radio and television audio and video  
10 programming services, regardless of the medium,  
11 including the furnishing of transmission,  
12 conveyance and routing of such services by the  
13 programming service provider. Radio and television  
14 audio and video programming services shall include  
15 but not be limited to cable service as defined in  
16 47 USC 522(6) and audio and video programming  
17 services delivered by commercial mobile radio  
18 service providers, as defined in 47 CFR 20.3;

19 (h) "Ancillary services"; or

20 (i) Digital products "delivered  
21 electronically", including but not limited to  
22 software, music, video, reading materials or ring  
23 tones.

24 "Vertical service" means an "ancillary service"  
25 that is offered in connection with one or more  
26 "telecommunications services", which offers advanced

1 calling features that allow customers to identify  
2 callers and to manage multiple calls and call  
3 connections, including "conference bridging services".

4 "Voice mail service" means an "ancillary service"  
5 that enables the customer to store, send or receive  
6 recorded messages. "Voice mail service" does not  
7 include any "vertical services" that the customer may  
8 be required to have in order to utilize the "voice mail  
9 service".

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

13 (a) The call both originates and terminates in  
14 this State.

15 (b) The call either originates or terminates  
16 in this State and the service address is located in  
17 this State.

18 (iii) Receipts from the sale of postpaid  
19 telecommunications service at retail are in this State  
20 if the origination point of the telecommunication  
21 signal, as first identified by the service provider's  
22 telecommunication system or as identified by  
23 information received by the seller from its service  
24 provider if the system used to transport  
25 telecommunication signals is not the seller's, is  
26 located in this State.

1 (iv) Receipts from the sale of prepaid  
2 telecommunications service or prepaid mobile  
3 telecommunications service at retail are in this State  
4 if the purchaser obtains the prepaid card or similar  
5 means of conveyance at a location in this State.  
6 Receipts from recharging a prepaid telecommunications  
7 service or mobile telecommunications service is in  
8 this State if the purchaser's billing information  
9 indicates a location in this State.

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

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

14 (b) 100% of receipts from charges for the total  
15 channel mileage between each channel termination  
16 point in this State.

17 (c) 50% of the total receipts from charges for  
18 service segments when those segments are between 2  
19 customer channel termination points, 1 of which is  
20 located in this State and the other is located  
21 outside of this State, which segments are  
22 separately charged.

23 (d) The receipts from charges for service  
24 segments with a channel termination point located  
25 in this State and in two or more other states, and  
26 which segments are not separately billed, are in

1           this State based on a percentage determined by  
2           dividing the number of customer channel  
3           termination points in this State by the total  
4           number of customer channel termination points.

5           (vi) Receipts from charges for ancillary services  
6           for telecommunications service sold to customers at  
7           retail are in this State if the customer's primary  
8           place of use of telecommunications services associated  
9           with those ancillary services is in this State. If the  
10          seller of those ancillary services cannot determine  
11          where the associated telecommunications are located,  
12          then the ancillary services shall be based on the  
13          location of the purchaser.

14          (vii) Receipts to access a carrier's network or  
15          from the sale of telecommunication services or  
16          ancillary services for resale are in this State as  
17          follows:

18                 (a) 100% of the receipts from access fees  
19                 attributable to intrastate telecommunications  
20                 service that both originates and terminates in  
21                 this State.

22                 (b) 50% of the receipts from access fees  
23                 attributable to interstate telecommunications  
24                 service if the interstate call either originates  
25                 or terminates in this State.

26                 (c) 100% of the receipts from interstate end

1 user access line charges, if the customer's  
2 service address is in this State. As used in this  
3 subdivision, "interstate end user access line  
4 charges" includes, but is not limited to, the  
5 surcharge approved by the federal communications  
6 commission and levied pursuant to 47 CFR 69.

7 (d) Gross receipts from sales of  
8 telecommunication services or from ancillary  
9 services for telecommunications services sold to  
10 other telecommunication service providers for  
11 resale shall be sourced to this State using the  
12 apportionment concepts used for non-resale  
13 receipts of telecommunications services if the  
14 information is readily available to make that  
15 determination. If the information is not readily  
16 available, then the taxpayer may use any other  
17 reasonable and consistent method.

18 (B-7) For taxable years ending on or after December 31,  
19 2008, receipts from the sale of broadcasting services are  
20 in this State if the broadcasting services are received in  
21 this State. For purposes of this paragraph (B-7), the  
22 following terms have the following meanings:

23 "Advertising revenue" means consideration received  
24 by the taxpayer in exchange for broadcasting services  
25 or allowing the broadcasting of commercials or  
26 announcements in connection with the broadcasting of

1 film or radio programming, from sponsorships of the  
2 programming, or from product placements in the  
3 programming.

4 "Audience factor" means the ratio that the  
5 audience or subscribers located in this State of a  
6 station, a network, or a cable system bears to the  
7 total audience or total subscribers for that station,  
8 network, or cable system. The audience factor for film  
9 or radio programming shall be determined by reference  
10 to the books and records of the taxpayer or by  
11 reference to published rating statistics provided the  
12 method used by the taxpayer is consistently used from  
13 year to year for this purpose and fairly represents the  
14 taxpayer's activity in this State.

15 "Broadcast" or "broadcasting" or "broadcasting  
16 services" means the transmission or provision of film  
17 or radio programming, whether through the public  
18 airwaves, by cable, by direct or indirect satellite  
19 transmission, or by any other means of communication,  
20 either through a station, a network, or a cable system.

21 "Film" or "film programming" means the broadcast  
22 on television of any and all performances, events, or  
23 productions, including but not limited to news,  
24 sporting events, plays, stories, or other literary,  
25 commercial, educational, or artistic works, either  
26 live or through the use of video tape, disc, or any

1 other type of format or medium. Each episode of a  
2 series of films produced for television shall  
3 constitute separate "film" notwithstanding that the  
4 series relates to the same principal subject and is  
5 produced during one or more tax periods.

6 "Radio" or "radio programming" means the broadcast  
7 on radio of any and all performances, events, or  
8 productions, including but not limited to news,  
9 sporting events, plays, stories, or other literary,  
10 commercial, educational, or artistic works, either  
11 live or through the use of an audio tape, disc, or any  
12 other format or medium. Each episode in a series of  
13 radio programming produced for radio broadcast shall  
14 constitute a separate "radio programming"  
15 notwithstanding that the series relates to the same  
16 principal subject and is produced during one or more  
17 tax periods.

18 (i) In the case of advertising revenue from  
19 broadcasting, the customer is the advertiser and  
20 the service is received in this State if the  
21 commercial domicile of the advertiser is in this  
22 State.

23 (ii) In the case where film or radio  
24 programming is broadcast by a station, a network,  
25 or a cable system for a fee or other remuneration  
26 received from the recipient of the broadcast, the



1 portion of the service that is received in this  
2 State is measured by the portion of the recipients  
3 of the broadcast located in this State.  
4 Accordingly, the fee or other remuneration for  
5 such service that is included in the Illinois  
6 numerator of the sales factor is the total of those  
7 fees or other remuneration received from  
8 recipients in Illinois. For purposes of this  
9 paragraph, a taxpayer may determine the location  
10 of the recipients of its broadcast using the  
11 address of the recipient shown in its contracts  
12 with the recipient or using the billing address of  
13 the recipient in the taxpayer's records.

14 (iii) In the case where film or radio  
15 programming is broadcast by a station, a network,  
16 or a cable system for a fee or other remuneration  
17 from the person providing the programming, the  
18 portion of the broadcast service that is received  
19 by such station, network, or cable system in this  
20 State is measured by the portion of recipients of  
21 the broadcast located in this State. Accordingly,  
22 the amount of revenue related to such an  
23 arrangement that is included in the Illinois  
24 numerator of the sales factor is the total fee or  
25 other total remuneration from the person providing  
26 the programming related to that broadcast

1 multiplied by the Illinois audience factor for  
2 that broadcast.

3 (iv) In the case where film or radio  
4 programming is provided by a taxpayer that is a  
5 network or station to a customer for broadcast in  
6 exchange for a fee or other remuneration from that  
7 customer the broadcasting service is received at  
8 the location of the office of the customer from  
9 which the services were ordered in the regular  
10 course of the customer's trade or business.  
11 Accordingly, in such a case the revenue derived by  
12 the taxpayer that is included in the taxpayer's  
13 Illinois numerator of the sales factor is the  
14 revenue from such customers who receive the  
15 broadcasting service in Illinois.

16 (v) In the case where film or radio programming  
17 is provided by a taxpayer that is not a network or  
18 station to another person for broadcasting in  
19 exchange for a fee or other remuneration from that  
20 person, the broadcasting service is received at  
21 the location of the office of the customer from  
22 which the services were ordered in the regular  
23 course of the customer's trade or business.  
24 Accordingly, in such a case the revenue derived by  
25 the taxpayer that is included in the taxpayer's  
26 Illinois numerator of the sales factor is the

1 revenue from such customers who receive the  
2 broadcasting service in Illinois.

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

6 (i) The income-producing activity is performed in  
7 this State; or

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

13 (C-5) For taxable years ending on or after December 31,  
14 2008, sales, other than sales governed by paragraphs (B),  
15 (B-1), (B-2), (B-5), and (B-7), are in this State if any of  
16 the following criteria are met:

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

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

1 State to the extent that the property is used in this  
2 State.

3 (iii) In the case of interest, net gains (but not  
4 less than zero) and other items of income from  
5 intangible personal property, the sale is in this State  
6 if:

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

22 (b) in all other cases, if the  
23 income-producing activity of the taxpayer is  
24 performed in this State or, if the  
25 income-producing activity of the taxpayer is  
26 performed both within and without this State, if a

1 greater proportion of the income-producing  
2 activity of the taxpayer is performed within this  
3 State than in any other state, based on performance  
4 costs.

5 (iv) Sales of services are in this State if the  
6 services are received in this State. For the purposes  
7 of this section, gross receipts from the performance of  
8 services provided to a corporation, partnership, or  
9 trust may only be attributed to a state where that  
10 corporation, partnership, or trust has a fixed place of  
11 business. If the state where the services are received  
12 is not readily determinable or is a state where the  
13 corporation, partnership, or trust receiving the  
14 service does not have a fixed place of business, the  
15 services shall be deemed to be received at the location  
16 of the office of the customer from which the services  
17 were ordered in the regular course of the customer's  
18 trade or business. If the ordering office cannot be  
19 determined, the services shall be deemed to be received  
20 at the office of the customer to which the services are  
21 billed. If the taxpayer is not taxable in the state in  
22 which the services are received, the sale must be  
23 excluded from both the numerator and the denominator of  
24 the sales factor. The Department shall adopt rules  
25 prescribing where specific types of service are  
26 received, including, but not limited to, publishing,

1           and utility service.

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

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

1 that taxpayer is not a member of such group.

2 (b) Insurance companies.

3 (1) In general. Except as otherwise provided by  
4 paragraph (2), business income of an insurance company for  
5 a taxable year shall be apportioned to this State by  
6 multiplying such income by a fraction, the numerator of  
7 which is the direct premiums written for insurance upon  
8 property or risk in this State, and the denominator of  
9 which is the direct premiums written for insurance upon  
10 property or risk everywhere. For purposes of this  
11 subsection, the term "direct premiums written" means the  
12 total amount of direct premiums written, assessments and  
13 annuity considerations as reported for the taxable year on  
14 the annual statement filed by the company with the Illinois  
15 Director of Insurance in the form approved by the National  
16 Convention of Insurance Commissioners or such other form as  
17 may be prescribed in lieu thereof.

18 (2) Reinsurance. If the principal source of premiums  
19 written by an insurance company consists of premiums for  
20 reinsurance accepted by it, the business income of such  
21 company shall be apportioned to this State by multiplying  
22 such income by a fraction, the numerator of which is the  
23 sum of (i) direct premiums written for insurance upon  
24 property or risk in this State, plus (ii) premiums written  
25 for reinsurance accepted in respect of property or risk in  
26 this State, and the denominator of which is the sum of

1 (iii) direct premiums written for insurance upon property  
2 or risk everywhere, plus (iv) premiums written for  
3 reinsurance accepted in respect of property or risk  
4 everywhere. For ~~taxable years ending before December 31,~~  
5 ~~2008,~~ for purposes of this paragraph, premiums written for  
6 reinsurance accepted in respect of property or risk in this  
7 State, whether or not otherwise determinable, may, at the  
8 election of the company, be determined on the basis of the  
9 proportion which premiums written for reinsurance accepted  
10 from companies commercially domiciled in Illinois bears to  
11 premiums written for reinsurance accepted from all  
12 sources, or, alternatively, in the proportion which the sum  
13 of the direct premiums written for insurance upon property  
14 or risk in this State by each ceding company from which  
15 reinsurance is accepted bears to the sum of the total  
16 direct premiums written by each such ceding company for the  
17 taxable year. The election made by a company under this  
18 paragraph for its first taxable year ending on or after  
19 December 31, 2011, shall be binding for that company for  
20 that taxable year and for all subsequent taxable years, and  
21 may be altered only with the written permission of the  
22 Department, which shall not be unreasonably withheld.

23 (c) Financial organizations.

24 (1) In general. For taxable years ending before  
25 December 31, 2008, business income of a financial  
26 organization shall be apportioned to this State by



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

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

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

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

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

20 (E) Any other gross income resulting from the  
21 operation as a financial organization within this  
22 State. In computing the amounts referred to in  
23 paragraphs (A) through (E) of this subsection, any  
24 amount received by a member of an affiliated group  
25 (determined under Section 1504(a) of the Internal  
26 Revenue Code but without reference to whether any such

1 corporation is an "includible corporation" under  
2 Section 1504(b) of the Internal Revenue Code) from  
3 another member of such group shall be included only to  
4 the extent such amount exceeds expenses of the  
5 recipient directly related thereto.

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

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

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

15 (i) The numerator shall be:

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

1 other regulatory authorities, for the year 1980,  
2 minus

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

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

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

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

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

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

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

15 (iii) Interest income, commissions, fees, gains on  
16 disposition, and other receipts from consumer loans  
17 that are not secured by real or tangible personal  
18 property are from sources in this State if the debtor  
19 is a resident of this State.

20 (iv) Interest income, commissions, fees, gains on  
21 disposition, and other receipts from commercial loans  
22 and installment obligations that are not secured by  
23 real or tangible personal property are from sources in  
24 this State if the proceeds of the loan are to be  
25 applied in this State. If it cannot be determined where  
26 the funds are to be applied, the income and receipts

1 are from sources in this State if the office of the  
2 borrower from which the loan was negotiated in the  
3 regular course of business is located in this State. If  
4 the location of this office cannot be determined, the  
5 income and receipts shall be excluded from the  
6 numerator and denominator of the sales factor.

7 (v) Interest income, fees, gains on disposition,  
8 service charges, merchant discount income, and other  
9 receipts from credit card receivables are from sources  
10 in this State if the card charges are regularly billed  
11 to a customer in this State.

12 (vi) Receipts from the performance of services,  
13 including, but not limited to, fiduciary, advisory,  
14 and brokerage services, are in this State if the  
15 services are received in this State within the meaning  
16 of subparagraph (a) (3) (C-5) (iv) of this Section.

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

21 (viii) Receipts from investment assets and  
22 activities and trading assets and activities are  
23 included in the receipts factor as follows:

24 (1) Interest, dividends, net gains (but not  
25 less than zero) and other income from investment  
26 assets and activities from trading assets and

1 activities shall be included in the receipts  
2 factor. Investment assets and activities and  
3 trading assets and activities include but are not  
4 limited to: investment securities; trading account  
5 assets; federal funds; securities purchased and  
6 sold under agreements to resell or repurchase;  
7 options; futures contracts; forward contracts;  
8 notional principal contracts such as swaps;  
9 equities; and foreign currency transactions. With  
10 respect to the investment and trading assets and  
11 activities described in subparagraphs (A) and (B)  
12 of this paragraph, the receipts factor shall  
13 include the amounts described in such  
14 subparagraphs.

15 (A) The receipts factor shall include the  
16 amount by which interest from federal funds  
17 sold and securities purchased under resale  
18 agreements exceeds interest expense on federal  
19 funds purchased and securities sold under  
20 repurchase agreements.

21 (B) The receipts factor shall include the  
22 amount by which interest, dividends, gains and  
23 other income from trading assets and  
24 activities, including but not limited to  
25 assets and activities in the matched book, in  
26 the arbitrage book, and foreign currency

1 transactions, exceed amounts paid in lieu of  
2 interest, amounts paid in lieu of dividends,  
3 and losses from such assets and activities.

4 (2) The numerator of the receipts factor  
5 includes interest, dividends, net gains (but not  
6 less than zero), and other income from investment  
7 assets and activities and from trading assets and  
8 activities described in paragraph (1) of this  
9 subsection that are attributable to this State.

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

23 (B) The amount of interest from federal  
24 funds sold and purchased and from securities  
25 purchased under resale agreements and  
26 securities sold under repurchase agreements



1           attributable to this State and included in the  
2           numerator is determined by multiplying the  
3           amount described in subparagraph (A) of  
4           paragraph (1) of this subsection from such  
5           funds and such securities by a fraction, the  
6           numerator of which is the gross income from  
7           such funds and such securities which are  
8           properly assigned to a fixed place of business  
9           of the taxpayer within this State and the  
10          denominator of which is the gross income from  
11          all such funds and such securities.

12           (C) The amount of interest, dividends,  
13           gains, and other income from trading assets and  
14           activities, including but not limited to  
15           assets and activities in the matched book, in  
16           the arbitrage book and foreign currency  
17           transactions (but excluding amounts described  
18           in subparagraphs (A) or (B) of this paragraph),  
19           attributable to this State and included in the  
20           numerator is determined by multiplying the  
21           amount described in subparagraph (B) of  
22           paragraph (1) of this subsection by a fraction,  
23           the numerator of which is the gross income from  
24           such trading assets and activities which are  
25           properly assigned to a fixed place of business  
26           of the taxpayer within this State and the

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

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

12 (i) the taxpayer has assigned, in the  
13 regular course of its business, such asset  
14 or activity on its records to a fixed place  
15 of business consistent with federal or  
16 state regulatory requirements;

17 (ii) such assignment on its records is  
18 based upon substantive contacts of the  
19 asset or activity to such fixed place of  
20 business; and

21 (iii) the taxpayer uses such records  
22 reflecting assignment of such assets or  
23 activities for the filing of all state and  
24 local tax returns for which an assignment  
25 of such assets or activities to a fixed  
26 place of business is required.

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

1 investment or trading income or out of which  
2 they are working, irrespective of where the  
3 services of such employees are performed, as of  
4 the last day of the taxable year.

5 (4) (Blank).

6 (5) (Blank).

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

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

25 (A) relative railway operating income from total  
26 passenger and total freight service, as reported to the

1 Interstate Commerce Commission, in the case of  
2 transportation by railroad, and

3 (B) relative gross receipts from passenger and  
4 freight transportation, in case of transportation  
5 other than by railroad.

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

16 (3) For taxable years ending on or after December 31,  
17 2008, business income derived from providing  
18 transportation services other than airline services shall  
19 be apportioned to this State by using a fraction, (a) the  
20 numerator of which shall be (i) all receipts from any  
21 movement or shipment of people, goods, mail, oil, gas, or  
22 any other substance (other than by airline) that both  
23 originates and terminates in this State, plus (ii) that  
24 portion of the person's gross receipts from movements or  
25 shipments of people, goods, mail, oil, gas, or any other  
26 substance (other than by airline) that originates in one

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

13 (A) relative railway operating income from total  
14 passenger and total freight service, as reported to the  
15 Surface Transportation Board, in the case of  
16 transportation by railroad; and

17 (B) relative gross receipts from passenger and  
18 freight transportation, in case of transportation  
19 other than by railroad.

20 (4) For taxable years ending on or after December 31,  
21 2008, business income derived from furnishing airline  
22 transportation services shall be apportioned to this State  
23 by multiplying such income by a fraction, the numerator of  
24 which is the revenue miles of the person in this State, and  
25 the denominator of which is the revenue miles of the person  
26 everywhere. For purposes of this paragraph, a revenue mile

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

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

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

22 (1) Separate accounting;

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

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

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

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

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

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

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

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

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

26           (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;



1 96-763, eff. 8-25-09.)

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

3 Sec. 502. Returns and notices.

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

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

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

19 Notwithstanding the provisions of paragraph (1), a  
20 nonresident (other than, for taxable years ending on or after  
21 December 31, 2011, a nonresident required to withhold tax under  
22 Section 709.5) whose Illinois income tax liability under  
23 subsections (a), (b), (c), and (d) of Section 201 of this Act  
24 is paid in full after taking into account the credits allowed  
25 under subsection (f) of this Section or allowed under Section

1 709.5 of this Act shall not be required to file a return under  
2 this subsection (a).

3 (b) Fiduciaries and receivers.

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

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

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

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

1 (c) Joint returns by husband and wife.

2 (1) Except as provided in paragraph (3):

3 (A) if a husband and wife file a joint federal  
4 income tax return for a taxable year ending before  
5 December 31, 2009, they shall file a joint return under  
6 this Act for such taxable year and their liabilities  
7 shall be joint and several;

8 (B) if a husband and wife file a joint federal  
9 income tax return for a taxable year ending on or after  
10 December 31, 2009, they may elect to file separate  
11 returns under this Act for such taxable year. The  
12 election under this paragraph must be made on or before  
13 the due date (including extensions) of the return and,  
14 once made, shall be irrevocable. If no election is  
15 timely made under this paragraph for a taxable year:

16 (i) the couple must file a joint return under  
17 this Act for such taxable year,

18 (ii) their liabilities shall be joint and  
19 several, and

20 (iii) any overpayment for that taxable year  
21 may be withheld under Section 909 of this Act or  
22 under Section 2505-275 of the Civil Administrative  
23 Code of Illinois and applied against a debt of  
24 either spouse without regard to the amount of the  
25 overpayment attributable to the other spouse; and

26 (C) if the federal income tax liability of either

1 spouse is determined on a separate federal income tax  
2 return, they shall file separate returns under this  
3 Act.

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

9 (3) If either husband or wife is a resident and the  
10 other is a nonresident, they shall file separate returns in  
11 this State on such forms as may be required by the  
12 Department in which event their tax liabilities shall be  
13 separate; but if they file a joint federal income tax  
14 return for a taxable year, they may elect to determine  
15 their joint net income and file a joint return for that  
16 taxable year under the provisions of paragraph (1) of this  
17 subsection as if both were residents and in such case,  
18 their liabilities shall be joint and several.

19 (4) Innocent spouses.

20 (A) However, for tax liabilities arising and paid  
21 prior to August 13, 1999, an innocent spouse shall be  
22 relieved of liability for tax (including interest and  
23 penalties) for any taxable year for which a joint  
24 return has been made, upon submission of proof that the  
25 Internal Revenue Service has made a determination  
26 under Section 6013(e) of the Internal Revenue Code, for

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

8 (B) For tax liabilities arising on and after August  
9 13, 1999 or which arose prior to that date, but remain  
10 unpaid as of that date, if an individual who filed a  
11 joint return for any taxable year has made an election  
12 under this paragraph, the individual's liability for  
13 any tax shown on the joint return shall not exceed the  
14 individual's separate return amount and the  
15 individual's liability for any deficiency assessed for  
16 that taxable year shall not exceed the portion of the  
17 deficiency properly allocable to the individual. For  
18 purposes of this paragraph:

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

26 (ii) If no election has been made under Section

1           6015, the individual may make an election under  
2           this paragraph in the form and manner prescribed by  
3           the Department, provided that no election may be  
4           made if the Department finds that assets were  
5           transferred between individuals filing a joint  
6           return as part of a scheme by such individuals to  
7           avoid payment of Illinois income tax and the  
8           election shall not eliminate the individual's  
9           liability for any portion of a deficiency  
10          attributable to an error on the return of which the  
11          individual had actual knowledge as of the date of  
12          filing.

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

18                 (iv) In determining the validity of an  
19          individual's election under subparagraph (ii) and  
20          in determining an electing individual's separate  
21          return amount or portion of any deficiency under  
22          subparagraph (iii), any determination made by the  
23          Secretary of the Treasury, by the United States Tax  
24          Court on petition for review of a determination by  
25          the Secretary of the Treasury, or on appeal from  
26          the United States Tax Court under Section 6015 of

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

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

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

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

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



1 information as the Department may by forms or regulations  
2 prescribe. The partnership shall make that information  
3 available to the Department when requested by the Department.

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

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

1 collection and payment and determination of the group's tax  
2 liability under this Act.

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

24 For taxable years ending on or after December 31, 1999, the  
25 Department may, by regulation, also permit any persons  
26 transacting an insurance business organized under a Lloyds plan

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

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

23 (f-5) For taxable years ending on or after December 31,  
24 2008, the Department may adopt rules to provide that, when a  
25 partnership or Subchapter S corporation has made an error in  
26 determining the amount of any item of income, deduction,

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

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

11 (Source: P.A. 95-233, eff. 8-16-07; 96-520, eff. 8-14-09.)

12 (35 ILCS 5/506) (from Ch. 120, par. 5-506)

13 Sec. 506. Federal Returns.

14 (a) In general. Any person required to make a return for a  
15 taxable year under this Act may, at any time that a deficiency  
16 could be assessed or a refund claimed under this Act in respect  
17 of any item reported or properly reportable on such return or  
18 any amendment thereof, be required to furnish to the Department  
19 a true and correct copy of any return which may pertain to such  
20 item and which was filed by such person under the provisions of  
21 the Internal Revenue Code.

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

24 (1) the taxable income, any item of income or  
25 deduction, the income tax liability, or any tax credit

1 reported in an original or amended a federal income tax  
2 return of that person for any year or as determined by the  
3 Internal Revenue Service or the courts is altered by  
4 amendment of such return or as a result of any other  
5 recomputation or redetermination of federal taxable income  
6 or loss, and such alteration reflects a change or  
7 settlement with respect to any item or items, affecting the  
8 computation of such person's net income, net loss, or of  
9 any credit provided by Article 2 of this Act for any year  
10 under this Act, or in the number of personal exemptions  
11 allowable to such person under Section 151 of the Internal  
12 Revenue Code, or

13 (2) the amount of tax required to be withheld by that  
14 person from compensation paid to employees and required to  
15 be reported by that person on a federal return is altered  
16 by amendment of the return or by any other recomputation or  
17 redetermination that is agreed to or finally determined on  
18 or after January 1, 2003, and the alteration affects the  
19 amount of compensation subject to withholding by that  
20 person under Section 701 of this Act.

21 Such notification shall be in the form of an amended return or  
22 such other form as the Department may by regulations prescribe,  
23 shall contain the person's name and address and such other  
24 information as the Department may by regulations prescribe,  
25 shall be signed by such person or his duly authorized  
26 representative, and shall be filed not later than 120 days

1 after such alteration has been agreed to or finally determined  
2 for federal income tax purposes or any federal income tax  
3 deficiency or refund, tentative carryback adjustment,  
4 abatement or credit resulting therefrom has been assessed or  
5 paid, whichever shall first occur.

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

7 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

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

9 (a) In general. Every taxpayer required to file a return  
10 under this Act shall, without assessment, notice or demand, pay  
11 any tax due thereon to the Department, at the place fixed for  
12 filing, on or before the date fixed for filing such return  
13 (determined without regard to any extension of time for filing  
14 the return) pursuant to regulations prescribed by the  
15 Department. If, however, the due date for payment of a  
16 taxpayer's federal income tax liability for a tax year (as  
17 provided in the Internal Revenue Code or by Treasury  
18 regulation, or as extended by the Internal Revenue Service) is  
19 later than the date fixed for filing the taxpayer's Illinois  
20 income tax return for that tax year, the Department may, by  
21 rule, prescribe a due date for payment that is not later than  
22 the due date for payment of the taxpayer's federal income tax  
23 liability. For purposes of the Illinois Administrative  
24 Procedure Act, the adoption of rules to prescribe a later due  
25 date for payment shall be deemed an emergency and necessary for

1 the public interest, safety, and welfare.

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

5 (1) Withheld tax. Any amount withheld during any  
6 calendar year pursuant to Article 7 from compensation paid  
7 to a taxpayer shall be deemed to have been paid on account  
8 of any tax imposed by subsections 201(a) and (b) of this  
9 Act on such taxpayer for his taxable year beginning in such  
10 calendar year. If more than one taxable year begins in a  
11 calendar year, such amount shall be deemed to have been  
12 paid on account of such tax for the last taxable year so  
13 beginning.

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

18 (3) Foreign tax. The aggregate amount of tax which is  
19 imposed upon or measured by income and which is paid by a  
20 resident for a taxable year to another state or states on  
21 income which is also subject to the tax imposed by  
22 subsections 201(a) and (b) of this Act shall be credited  
23 against the tax imposed by subsections 201(a) and (b)  
24 otherwise due under this Act for such taxable year. For  
25 taxable years ending prior to December 31, 2009, the  
26 aggregate credit provided under this paragraph shall not

1 exceed that amount which bears the same ratio to the tax  
2 imposed by subsections 201(a) and (b) otherwise due under  
3 this Act as the amount of the taxpayer's base income  
4 subject to tax both by such other state or states and by  
5 this State bears to his total base income subject to tax by  
6 this State for the taxable year. For taxable years ending  
7 on or after December 31, 2009, the credit provided under  
8 this paragraph for tax paid to other states shall not  
9 exceed that amount which bears the same ratio to the tax  
10 imposed by subsections 201(a) and (b) otherwise due under  
11 this Act as the amount of the taxpayer's base income that  
12 would be allocated or apportioned to other states if all  
13 other states had adopted the provisions in Article 3 of  
14 this Act bears to the taxpayer's total base income subject  
15 to tax by this State for the taxable year. The credit  
16 provided by this paragraph shall not be allowed if any  
17 creditable tax was deducted in determining base income for  
18 the taxable year. Any person claiming such credit shall  
19 attach a statement in support thereof and shall notify the  
20 Director of any refund or reductions in the amount of tax  
21 claimed as a credit hereunder all in such manner and at  
22 such time as the Department shall by regulations prescribe.

23 (4) Accumulation and capital gain distributions. If  
24 the net income of a taxpayer includes amounts included in  
25 his base income by reason of Section 667 ~~668~~ or ~~669~~ of the  
26 Internal Revenue Code (relating to accumulation and



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

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

16 (Source: P.A. 96-468, eff. 8-14-09.)

17 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

18 Sec. 701. Requirement and Amount of Withholding.

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

22 (1) compensation paid in this State (as determined  
23 under Section 304(a)(2)(B) to an individual; or

24 (2) payments described in subsection (b) shall deduct  
25 and withhold from such compensation for each payroll period

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

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

25 (c) Special Definitions. Withholding shall be considered  
26 required under the provisions of the Internal Revenue Code to

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

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

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

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

21 (35 ILCS 5/702) (from Ch. 120, par. 7-702)

22 Sec. 702. Amount Exempt from Withholding. For purposes of  
23 this Section an employee shall be entitled to a withholding  
24 exemption in an amount equal to the basic amount in Section  
25 204(b) for each personal or dependent exemption which he is

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

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

17 (35 ILCS 5/703) (from Ch. 120, par. 7-703)

18 Sec. 703. Information statement. Every employer required  
19 to deduct and withhold tax under this Act from compensation of  
20 an employee, or who would have been required so to deduct and  
21 withhold tax if the employee's withholding exemption were not  
22 in excess of the basic amount in Section 204(b), shall furnish  
23 in duplicate to each such employee in respect of the  
24 compensation paid by such employer to such employee during the  
25 calendar year on or before January 31 of the succeeding year,

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

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

12 (35 ILCS 5/704A)

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

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

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

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

1           (1) Semi-weekly payments. For each calendar year, each  
2 employer who withheld or was required to withhold more than  
3 \$12,000 during the one-year period ending on June 30 of the  
4 immediately preceding calendar year, payment must be made:

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

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

13           Beginning with calendar year 2011, payments ~~payment~~  
14 made under this paragraph (1) of subsection (c) must be  
15 made by electronic funds transfer.

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) Permit employers, in lieu of the requirements of  
8           subsections (b) and (c), to file annual returns due on or  
9           before January 31 of the year for taxes withheld or  
10          required to be withheld during the previous calendar year  
11          and, if the aggregate amounts required to be withheld by  
12          the employer under this Article 7 (other than amounts  
13          required to be withheld under Section 709.5) do not exceed  
14          \$1,000 for the previous calendar year, to pay the taxes  
15          required to be shown on each such return no later than the  
16          due date for such return.

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

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

26          (4) Increase the threshold dollar amounts at which

1 employers are required to make semi-weekly payments under  
2 subsection (c)(1) or (c)(2).

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

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

22 (g) For amounts deducted or withheld after December 31,  
23 2009, a taxpayer who makes an election under subsection (f) of  
24 Section 5-15 of the Economic Development for a Growing Economy  
25 Tax Credit Act for a taxable year shall be allowed a credit  
26 against payments due under this Section for amounts withheld



1 during the first calendar year beginning after the end of that  
2 taxable year equal to the amount of the credit for the  
3 incremental income tax attributable to full-time employees of  
4 the taxpayer awarded to the taxpayer by the Department of  
5 Commerce and Economic Opportunity under the Economic  
6 Development for a Growing Economy Tax Credit Act for the  
7 taxable year and credits not previously claimed and allowed to  
8 be carried forward under Section 211(4) of this Act as provided  
9 in subsection (f) of Section 5-15 of the Economic Development  
10 for a Growing Economy Tax Credit Act. The credit or credits may  
11 not reduce the taxpayer's obligation for any payment due under  
12 this Section to less than zero. If the amount of the credit or  
13 credits exceeds the total payments due under this Section with  
14 respect to amounts withheld during the calendar year, the  
15 excess may be carried forward and applied against the  
16 taxpayer's liability under this Section in the succeeding  
17 calendar years as allowed to be carried forward under paragraph  
18 (4) of Section 211 of this Act. The credit or credits shall be  
19 applied to the earliest year for which there is a tax  
20 liability. If there are credits from more than one taxable year  
21 that are available to offset a liability, the earlier credit  
22 shall be applied first. Each employer who deducts and withholds  
23 or is required to deduct and withhold tax under this Act and  
24 who retains income tax withholdings under subsection (f) of  
25 Section 5-15 of the Economic Development for a Growing Economy  
26 Tax Credit Act must make a return with respect to such taxes

1 and retained amounts in the form and manner that the  
2 Department, by rule, requires and pay to the Department or to a  
3 depository designated by the Department those withheld taxes  
4 not retained by the taxpayer. For purposes of this subsection  
5 (g), the term taxpayer shall include taxpayer and members of  
6 the taxpayer's unitary business group as defined under  
7 paragraph (27) of subsection (a) of Section 1501 of this Act.  
8 This Section is exempt from the provisions of Section 250 of  
9 this Act.

10 (h) An employer may claim a credit against payments due  
11 under this Section for amounts withheld during the first  
12 calendar year ending after the date on which a tax credit  
13 certificate was issued under Section 35 of the Small Business  
14 Job Creation Tax Credit Act. The credit shall be equal to the  
15 amount shown on the certificate, but may not reduce the  
16 taxpayer's obligation for any payment due under this Section to  
17 less than zero. If the amount of the credit exceeds the total  
18 payments due under this Section with respect to amounts  
19 withheld during the calendar year, the excess may be carried  
20 forward and applied against the taxpayer's liability under this  
21 Section in the 5 succeeding calendar years. The credit shall be  
22 applied to the earliest year for which there is a tax  
23 liability. If there are credits from more than one calendar  
24 year that are available to offset a liability, the earlier  
25 credit shall be applied first. This Section is exempt from the  
26 provisions of Section 250 of this Act.

1 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,  
2 eff. 12-14-09; 96-888, eff. 4-13-10; 96-905, eff. 6-4-10;  
3 96-1027, eff. 7-12-10; revised 9-16-10.)

4 (35 ILCS 5/709.5)

5 Sec. 709.5. Withholding by partnerships, Subchapter S  
6 corporations, and trusts.

7 (a) In general. For each taxable year ending on or after  
8 December 31, 2008, every partnership (other than a publicly  
9 traded partnership under Section 7704 of the Internal Revenue  
10 Code or investment partnership), Subchapter S corporation, and  
11 trust must withhold from each nonresident partner,  
12 shareholder, or beneficiary (other than a partner,  
13 shareholder, or beneficiary who is exempt from tax under  
14 Section 501(a) of the Internal Revenue Code or under Section  
15 205 of this Act, ~~or~~ who is included on a composite return filed  
16 by the partnership or Subchapter S corporation for the taxable  
17 year under subsection (f) of Section 502 of this Act), or who  
18 is a retired partner, to the extent that partner's  
19 distributions are exempt from tax under Section 203(a)(2)(F) of  
20 this Act) an amount equal to the distributable share of the  
21 business income of the partnership, Subchapter S corporation,  
22 or trust apportionable to Illinois of that partner,  
23 shareholder, or beneficiary under Sections 702 and 704 and  
24 Subchapter S of the Internal Revenue Code, whether or not  
25 distributed, multiplied by the applicable rates of tax for that

1 partner or shareholder under subsections (a) through (d) of  
2 Section 201 of this Act.

3 (b) Credit for taxes withheld. Any amount withheld under  
4 subsection (a) of this Section and paid to the Department shall  
5 be treated as a payment of the estimated tax liability or of  
6 the liability for withholding under this Section of the  
7 partner, shareholder, or beneficiary to whom the income is  
8 distributable for the taxable year in which that person  
9 incurred a liability under this Act with respect to that  
10 income. The Department shall adopt rules pursuant to which a  
11 partner, shareholder, or beneficiary may claim a credit against  
12 its obligation for withholding under this Section for amounts  
13 withheld under this Section with respect to income  
14 distributable to it by a partnership, Subchapter S corporation,  
15 or trust and allowing its partners, shareholders, or  
16 beneficiaries to claim a credit under this subsection (b) for  
17 those withheld amounts.

18 (c) Exemption from withholding.

19 (1) A partnership, Subchapter S corporation, or trust  
20 shall not be required to withhold tax under subsection (a)  
21 of this Section with respect to any nonresident partner,  
22 shareholder, or beneficiary (other than an individual)  
23 from whom the partnership, S corporation, or trust has  
24 received a certificate, completed in the form and manner  
25 prescribed by the Department, stating that such  
26 nonresident partner, shareholder, or beneficiary shall:

1           (A) file all returns that the partner,  
2           shareholder, or beneficiary is required to file under  
3           Section 502 of this Act and make timely payment of all  
4           taxes imposed under Section 201 of this Act or under  
5           this Section on the partner, shareholder, or  
6           beneficiary with respect to income of the partnership,  
7           S corporation, or trust; and

8           (B) be subject to personal jurisdiction in this  
9           State for purposes of the collection of income taxes,  
10          together with related interest and penalties, imposed  
11          on the partner, shareholder, or beneficiary with  
12          respect to the income of the partnership, S  
13          corporation, or trust.

14          (2) The Department may revoke the exemption provided by  
15          this subsection (c) at any time that it determines that the  
16          nonresident partner, shareholder, or beneficiary is not  
17          abiding by the terms of the certificate. The Department  
18          shall notify the partnership, S corporation, or trust that  
19          it has revoked a certificate by notice left at the usual  
20          place of business of the partnership, S corporation, or  
21          trust or by mail to the last known address of the  
22          partnership, S corporation, or trust.

23          (3) A partnership, S corporation, or trust that  
24          receives a certificate under this subsection (c) properly  
25          completed by a nonresident partner, shareholder, or  
26          beneficiary shall not be required to withhold any amount

1 from that partner, shareholder, or beneficiary, the  
2 payment of which would be due under Section 711(a-5) of  
3 this Act after the receipt of the certificate and no  
4 earlier than 60 days after the Department has notified the  
5 partnership, S corporation, or trust that the certificate  
6 has been revoked.

7 (4) Certificates received by a the partnership, S  
8 corporation, or trust under this subsection (c) must be  
9 retained by the partnership, S corporation, or trust and a  
10 record of such certificates must be provided to the  
11 Department, in a format in which the record is available  
12 for review by the Department, upon request by the  
13 Department. The Department may, by rule, require the record  
14 of certificates to be maintained and provided to the  
15 Department electronically.

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

17 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

18 Sec. 804. Failure to Pay Estimated Tax.

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

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

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

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

7 (c) Amount of Required Installments.

8 (1) Amount.

9 (A) In General. Except as provided in paragraph  
10 (2), the amount of any required installment shall be  
11 25% of the required annual payment.

12 (B) Required Annual Payment. For purposes of  
13 subparagraph (A), the term "required annual payment"  
14 means the lesser of

15 (i) 90% of the tax shown on the return for the  
16 taxable year, or if no return is filed, 90% of the  
17 tax for such year,

18 (ii) for installments due prior to February 1,  
19 2011, and after January 31, 2012, 100% of the tax  
20 shown on the return of the taxpayer for the  
21 preceding taxable year if a return showing a  
22 liability for tax was filed by the taxpayer for the  
23 preceding taxable year and such preceding year was  
24 a taxable year of 12 months; or

25 (iii) for installments due after January 31,  
26 2011, and prior to February 1, 2012, 150% of the

1 tax shown on the return of the taxpayer for the  
2 preceding taxable year if a return showing a  
3 liability for tax was filed by the taxpayer for the  
4 preceding taxable year and such preceding year was  
5 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; 96-1496, eff. 1-13-11.)

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 5/1402) (from Ch. 120, par. 14-1402)

22 Sec. 1402. Notice.

23 Whenever notice is required by this Act, such notice may  
24 ~~shall~~, if not otherwise provided, be given or issued by mailing  
25 it by first-class ~~registered or certified~~ mail addressed to the



1 person concerned at his last known address. Notice to a person  
2 who is under a legal disability or deceased, shall be mailed to  
3 his last known address or, if the Department has received  
4 notice of the existence of a fiduciary for such person or his  
5 estate, to such fiduciary.

6 (Source: P.A. 76-261.)

7 (35 ILCS 5/1405.4)

8 Sec. 1405.4. Tax refund inquiries; response. The  
9 Department of Revenue shall establish procedures to inform  
10 taxpayers of the status of their refunds and shall provide a  
11 response to ~~respond in writing to~~ each inquiry concerning  
12 refunds under this Act within 10 days after receiving the  
13 inquiry. ~~The response shall include the date the inquiry was~~  
14 ~~received, the file number assigned to the inquiry, and the name~~  
15 ~~and telephone number of a person within the Department of~~  
16 ~~Revenue whom the taxpayer may contact with further inquiries.~~

17 (Source: P.A. 89-89, eff. 6-30-95.)

18 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

19 Sec. 1501. Definitions.

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

23 (1) Business income. The term "business income" means  
24 all income that may be treated as apportionable business

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

9 (1.5) Captive real estate investment trust:

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

12 (i) that is considered a real estate  
13 investment trust for the taxable year under  
14 Section 856 of the Internal Revenue Code;

15 (ii) the certificates of beneficial interest  
16 or shares of which are not regularly traded on an  
17 established securities market; and

18 (iii) of which more than 50% of the voting  
19 power or value of the beneficial interest or  
20 shares, at any time during the last half of the  
21 taxable year, is owned or controlled, directly,  
22 indirectly, or constructively, by a single  
23 corporation.

24 (B) The term "captive real estate investment  
25 trust" does not include:

26 (i) a real estate investment trust of which

1 more than 50% of the voting power or value of the  
2 beneficial interest or shares is owned or  
3 controlled, directly, indirectly, or  
4 constructively, by:

5 (a) a real estate investment trust, other  
6 than a captive real estate investment trust;

7 (b) a person who is exempt from taxation  
8 under Section 501 of the Internal Revenue Code,  
9 and who is not required to treat income  
10 received from the real estate investment trust  
11 as unrelated business taxable income under  
12 Section 512 of the Internal Revenue Code;

13 (c) a listed Australian property trust, if  
14 no more than 50% of the voting power or value  
15 of the beneficial interest or shares of that  
16 trust, at any time during the last half of the  
17 taxable year, is owned or controlled, directly  
18 or indirectly, by a single person;

19 (d) an entity organized as a trust,  
20 provided a listed Australian property trust  
21 described in subparagraph (c) owns or  
22 controls, directly or indirectly, or  
23 constructively, 75% or more of the voting power  
24 or value of the beneficial interests or shares  
25 of such entity; or

26 (e) an entity that is organized outside of

1 the laws of the United States and that  
2 satisfies all of the following criteria:

3 (1) at least 75% of the entity's total  
4 asset value at the close of its taxable  
5 year is represented by real estate assets  
6 (as defined in Section 856(c)(5)(B) of the  
7 Internal Revenue Code, thereby including  
8 shares or certificates of beneficial  
9 interest in any real estate investment  
10 trust), cash and cash equivalents, and  
11 U.S. Government securities;

12 (2) the entity is not subject to tax on  
13 amounts that are distributed to its  
14 beneficial owners or is exempt from  
15 entity-level taxation;

16 (3) the entity distributes at least  
17 85% of its taxable income (as computed in  
18 the jurisdiction in which it is organized)  
19 to the holders of its shares or  
20 certificates of beneficial interest on an  
21 annual basis;

22 (4) either (i) the shares or  
23 beneficial interests of the entity are  
24 regularly traded on an established  
25 securities market or (ii) not more than 10%  
26 of the voting power or value in the entity

1 is held, directly, indirectly, or  
2 constructively, by a single entity or  
3 individual; and

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

7 (ii) during its first taxable year for which it  
8 elects to be treated as a real estate investment  
9 trust under Section 856(c)(1) of the Internal  
10 Revenue Code, a real estate investment trust the  
11 certificates of beneficial interest or shares of  
12 which are not regularly traded on an established  
13 securities market, but only if the certificates of  
14 beneficial interest or shares of the real estate  
15 investment trust are regularly traded on an  
16 established securities market prior to the earlier  
17 of the due date (including extensions) for filing  
18 its return under this Act for that first taxable  
19 year or the date it actually files that return.

20 (C) For the purposes of this subsection (1.5), the  
21 constructive ownership rules prescribed under Section  
22 318(a) of the Internal Revenue Code, as modified by  
23 Section 856(d)(5) of the Internal Revenue Code, apply  
24 in determining the ownership of stock, assets, or net  
25 profits of any person.

26 (2) Commercial domicile. The term "commercial

1 domicile" means the principal place from which the trade or  
2 business of the taxpayer is directed or managed.

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

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

12 (5) Department. The term "Department" means the  
13 Department of Revenue of this State.

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

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

19 (8) Financial organization.

20 (A) The term "financial organization" means any  
21 bank, bank holding company, trust company, savings  
22 bank, industrial bank, land bank, safe deposit  
23 company, private banker, savings and loan association,  
24 building and loan association, credit union, currency  
25 exchange, cooperative bank, small loan company, sales  
26 finance company, investment company, or any person

1           which is owned by a bank or bank holding company. For  
2           the purpose of this Section a "person" will include  
3           only those persons which a bank holding company may  
4           acquire and hold an interest in, directly or  
5           indirectly, under the provisions of the Bank Holding  
6           Company Act of 1956 (12 U.S.C. 1841, et seq.), except  
7           where interests in any person must be disposed of  
8           within certain required time limits under the Bank  
9           Holding Company Act of 1956.

10           (B) For purposes of subparagraph (A) of this  
11           paragraph, the term "bank" includes (i) any entity that  
12           is regulated by the Comptroller of the Currency under  
13           the National Bank Act, or by the Federal Reserve Board,  
14           or by the Federal Deposit Insurance Corporation and  
15           (ii) any federally or State chartered bank operating as  
16           a credit card bank.

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

20           (i) A person primarily engaged in one or more  
21           of the following businesses: the business of  
22           purchasing customer receivables, the business of  
23           making loans upon the security of customer  
24           receivables, the business of making loans for the  
25           express purpose of funding purchases of tangible  
26           personal property or services by the borrower, or

1 the business of finance leasing. For purposes of  
2 this item (i), "customer receivable" means:

3 (a) a retail installment contract or  
4 retail charge agreement within the meaning of  
5 the Sales Finance Agency Act, the Retail  
6 Installment Sales Act, or the Motor Vehicle  
7 Retail Installment Sales Act;

8 (b) an installment, charge, credit, or  
9 similar contract or agreement arising from the  
10 sale of tangible personal property or services  
11 in a transaction involving a deferred payment  
12 price payable in one or more installments  
13 subsequent to the sale; or

14 (c) the outstanding balance of a contract  
15 or agreement described in provisions (a) or (b)  
16 of this item (i).

17 A customer receivable need not provide for  
18 payment of interest on deferred payments. A sales  
19 finance company may purchase a customer receivable  
20 from, or make a loan secured by a customer  
21 receivable to, the seller in the original  
22 transaction or to a person who purchased the  
23 customer receivable directly or indirectly from  
24 that seller.

25 (ii) A corporation meeting each of the  
26 following criteria:



1           (a) the corporation must be a member of an  
2 "affiliated group" within the meaning of  
3 Section 1504(a) of the Internal Revenue Code,  
4 determined without regard to Section 1504(b)  
5 of the Internal Revenue Code;

6           (b) more than 50% of the gross income of  
7 the corporation for the taxable year must be  
8 interest income derived from qualifying loans.  
9 A "qualifying loan" is a loan made to a member  
10 of the corporation's affiliated group that  
11 originates customer receivables (within the  
12 meaning of item (i)) or to whom customer  
13 receivables originated by a member of the  
14 affiliated group have been transferred, to the  
15 extent the average outstanding balance of  
16 loans from that corporation to members of its  
17 affiliated group during the taxable year do not  
18 exceed the limitation amount for that  
19 corporation. The "limitation amount" for a  
20 corporation is the average outstanding  
21 balances during the taxable year of customer  
22 receivables (within the meaning of item (i))  
23 originated by all members of the affiliated  
24 group. If the average outstanding balances of  
25 the loans made by a corporation to members of  
26 its affiliated group exceed the limitation

1 amount, the interest income of that  
2 corporation from qualifying loans shall be  
3 equal to its interest income from loans to  
4 members of its affiliated groups times a  
5 fraction equal to the limitation amount  
6 divided by the average outstanding balances of  
7 the loans made by that corporation to members  
8 of its affiliated group;

9 (c) the total of all shareholder's equity  
10 (including, without limitation, paid-in  
11 capital on common and preferred stock and  
12 retained earnings) of the corporation plus the  
13 total of all of its loans, advances, and other  
14 obligations payable or owed to members of its  
15 affiliated group may not exceed 20% of the  
16 total assets of the corporation at any time  
17 during the tax year; and

18 (d) more than 50% of all interest-bearing  
19 obligations of the affiliated group payable to  
20 persons outside the group determined in  
21 accordance with generally accepted accounting  
22 principles must be obligations of the  
23 corporation.

24 This amendatory Act of the 91st General Assembly is  
25 declaratory of existing law.

26 (D) Subparagraphs (B) and (C) of this paragraph are

1 declaratory of existing law and apply retroactively,  
2 for all tax years beginning on or before December 31,  
3 1996, to all original returns, to all amended returns  
4 filed no later than 30 days after the effective date of  
5 this amendatory Act of 1996, and to all notices issued  
6 on or before the effective date of this amendatory Act  
7 of 1996 under subsection (a) of Section 903, subsection  
8 (a) of Section 904, subsection (e) of Section 909, or  
9 Section 912. A taxpayer that is a "financial  
10 organization" that engages in any transaction with an  
11 affiliate shall be a "financial organization" for all  
12 purposes of this Act.

13 (E) For all tax years beginning on or before  
14 December 31, 1996, a taxpayer that falls within the  
15 definition of a "financial organization" under  
16 subparagraphs (B) or (C) of this paragraph, but who  
17 does not fall within the definition of a "financial  
18 organization" under the Proposed Regulations issued by  
19 the Department of Revenue on July 19, 1996, may  
20 irrevocably elect to apply the Proposed Regulations  
21 for all of those years as though the Proposed  
22 Regulations had been lawfully promulgated, adopted,  
23 and in effect for all of those years. For purposes of  
24 applying subparagraphs (B) or (C) of this paragraph to  
25 all of those years, the election allowed by this  
26 subparagraph applies only to the taxpayer making the

1 election and to those members of the taxpayer's unitary  
2 business group who are ordinarily required to  
3 apportion business income under the same subsection of  
4 Section 304 of this Act as the taxpayer making the  
5 election. No election allowed by this subparagraph  
6 shall be made under a claim filed under subsection (d)  
7 of Section 909 more than 30 days after the effective  
8 date of this amendatory Act of 1996.

9 (F) Finance Leases. For purposes of this  
10 subsection, a finance lease shall be treated as a loan  
11 or other extension of credit, rather than as a lease,  
12 regardless of how the transaction is characterized for  
13 any other purpose, including the purposes of any  
14 regulatory agency to which the lessor is subject. A  
15 finance lease is any transaction in the form of a lease  
16 in which the lessee is treated as the owner of the  
17 leased asset entitled to any deduction for  
18 depreciation allowed under Section 167 of the Internal  
19 Revenue Code.

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

23 (9.5) Fixed place of business. The term "fixed place of  
24 business" has the same meaning as that term is given in  
25 Section 864 of the Internal Revenue Code and the related  
26 Treasury regulations.

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

5           (11) Internal Revenue Code. The term "Internal Revenue  
6           Code" means the United States Internal Revenue Code of 1954  
7           or any successor law or laws relating to federal income  
8           taxes in effect for the taxable year.

9           (11.5) Investment partnership.

10           (A) The term "investment partnership" means any  
11           entity that is treated as a partnership for federal  
12           income tax purposes that meets the following  
13           requirements:

14                   (i) no less than 90% of the partnership's cost  
15                   of its total assets consists of qualifying  
16                   investment securities, deposits at banks or other  
17                   financial institutions, and office space and  
18                   equipment reasonably necessary to carry on its  
19                   activities as an investment partnership;

20                   (ii) no less than 90% of its gross income  
21                   consists of interest, dividends, and gains from  
22                   the sale or exchange of qualifying investment  
23                   securities; and

24                   (iii) the partnership is not a dealer in  
25                   qualifying investment securities.

26           (B) For purposes of this paragraph (11.5), the term

1 "qualifying investment securities" includes all of the  
2 following:

3 (i) common stock, including preferred or debt  
4 securities convertible into common stock, and  
5 preferred stock;

6 (ii) bonds, debentures, and other debt  
7 securities;

8 (iii) foreign and domestic currency deposits  
9 secured by federal, state, or local governmental  
10 agencies;

11 (iv) mortgage or asset-backed securities  
12 secured by federal, state, or local governmental  
13 agencies;

14 (v) repurchase agreements and loan  
15 participations;

16 (vi) foreign currency exchange contracts and  
17 forward and futures contracts on foreign  
18 currencies;

19 (vii) stock and bond index securities and  
20 futures contracts and other similar financial  
21 securities and futures contracts on those  
22 securities;

23 (viii) options for the purchase or sale of any  
24 of the securities, currencies, contracts, or  
25 financial instruments described in items (i) to  
26 (vii), inclusive;

- 1 (ix) regulated futures contracts;
- 2 (x) commodities (not described in Section
- 3 1221(a)(1) of the Internal Revenue Code) or
- 4 futures, forwards, and options with respect to
- 5 such commodities, provided, however, that any item
- 6 of a physical commodity to which title is actually
- 7 acquired in the partnership's capacity as a dealer
- 8 in such commodity shall not be a qualifying
- 9 investment security;
- 10 (xi) derivatives; and
- 11 (xii) a partnership interest in another
- 12 partnership that is an investment partnership.

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

14 includes the following types of errors, omissions, or

15 defects in a return filed by a taxpayer which prevents

16 acceptance of the return as filed for processing:

- 17 (A) arithmetic errors or incorrect computations on
- 18 the return or supporting schedules;
- 19 (B) entries on the wrong lines;
- 20 (C) omission of required supporting forms or
- 21 schedules or the omission of the information in whole
- 22 or in part called for thereon; and
- 23 (D) an attempt to claim, exclude, deduct, or
- 24 improperly report, in a manner directly contrary to the
- 25 provisions of the Act and regulations thereunder any
- 26 item of income, exemption, deduction, or credit.

1           (13) Nonbusiness income. The term "nonbusiness income"  
2 means all income other than business income or  
3 compensation.

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

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

10          (16) Partnership and partner. The term "partnership"  
11 includes a syndicate, group, pool, joint venture or other  
12 unincorporated organization, through or by means of which  
13 any business, financial operation, or venture is carried  
14 on, and which is not, within the meaning of this Act, a  
15 trust or estate or a corporation; and the term "partner"  
16 includes a member in such syndicate, group, pool, joint  
17 venture or organization.

18           The term "partnership" includes any entity, including  
19 a limited liability company formed under the Illinois  
20 Limited Liability Company Act, classified as a partnership  
21 for federal income tax purposes.

22           The term "partnership" does not include a syndicate,  
23 group, pool, joint venture, or other unincorporated  
24 organization established for the sole purpose of playing  
25 the Illinois State Lottery.

26          (17) Part-year resident. The term "part-year resident"



1 means an individual who became a resident during the  
2 taxable year or ceased to be a resident during the taxable  
3 year. Under Section 1501(a)(20)(A)(i) residence commences  
4 with presence in this State for other than a temporary or  
5 transitory purpose and ceases with absence from this State  
6 for other than a temporary or transitory purpose. Under  
7 Section 1501(a)(20)(A)(ii) residence commences with the  
8 establishment of domicile in this State and ceases with the  
9 establishment of domicile in another State.

10 (18) Person. The term "person" shall be construed to  
11 mean and include an individual, a trust, estate,  
12 partnership, association, firm, company, corporation,  
13 limited liability company, or fiduciary. For purposes of  
14 Section 1301 and 1302 of this Act, a "person" means (i) an  
15 individual, (ii) a corporation, (iii) an officer, agent, or  
16 employee of a corporation, (iv) a member, agent or employee  
17 of a partnership, or (v) a member, manager, employee,  
18 officer, director, or agent of a limited liability company  
19 who in such capacity commits an offense specified in  
20 Section 1301 and 1302.

21 (18A) Records. The term "records" includes all data  
22 maintained by the taxpayer, whether on paper, microfilm,  
23 microfiche, or any type of machine-sensible data  
24 compilation.

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

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

2 (A) an individual (i) who is in this State for  
3 other than a temporary or transitory purpose during the  
4 taxable year; or (ii) who is domiciled in this State  
5 but is absent from the State for a temporary or  
6 transitory purpose during the taxable year;

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

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

11 (D) An irrevocable trust, the grantor of which was  
12 domiciled in this State at the time such trust became  
13 irrevocable. For purpose of this subparagraph, a trust  
14 shall be considered irrevocable to the extent that the  
15 grantor is not treated as the owner thereof under  
16 Sections 671 through 678 of the Internal Revenue Code.

17 (21) Sales. The term "sales" means all gross receipts  
18 of the taxpayer not allocated under Sections 301, 302 and  
19 303.

20 (22) State. The term "state" when applied to a  
21 jurisdiction other than this State means any state of the  
22 United States, the District of Columbia, the Commonwealth  
23 of Puerto Rico, any Territory or Possession of the United  
24 States, and any foreign country, or any political  
25 subdivision of any of the foregoing. For purposes of the  
26 foreign tax credit under Section 601, the term "state"

1 means any state of the United States, the District of  
2 Columbia, the Commonwealth of Puerto Rico, and any  
3 territory or possession of the United States, or any  
4 political subdivision of any of the foregoing, effective  
5 for tax years ending on or after December 31, 1989.

6 (23) Taxable year. The term "taxable year" means the  
7 calendar year, or the fiscal year ending during such  
8 calendar year, upon the basis of which the base income is  
9 computed under this Act. "Taxable year" means, in the case  
10 of a return made for a fractional part of a year under the  
11 provisions of this Act, the period for which such return is  
12 made.

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

15 (25) International banking facility. The term  
16 international banking facility shall have the same meaning  
17 as is set forth in the Illinois Banking Act or as is set  
18 forth in the laws of the United States or regulations of  
19 the Board of Governors of the Federal Reserve System.

20 (26) Income Tax Return Preparer.

21 (A) The term "income tax return preparer" means any  
22 person who prepares for compensation, or who employs  
23 one or more persons to prepare for compensation, any  
24 return of tax imposed by this Act or any claim for  
25 refund of tax imposed by this Act. The preparation of a  
26 substantial portion of a return or claim for refund

1 shall be treated as the preparation of that return or  
2 claim for refund.

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

5 (i) furnish typing, reproducing, or other  
6 mechanical assistance;

7 (ii) prepare returns or claims for refunds for  
8 the employer by whom he or she is regularly and  
9 continuously employed;

10 (iii) prepare as a fiduciary returns or claims  
11 for refunds for any person; or

12 (iv) prepare claims for refunds for a taxpayer  
13 in response to any notice of deficiency issued to  
14 that taxpayer or in response to any waiver of  
15 restriction after the commencement of an audit of  
16 that taxpayer or of another taxpayer if a  
17 determination in the audit of the other taxpayer  
18 directly or indirectly affects the tax liability  
19 of the taxpayer whose claims he or she is  
20 preparing.

21 (27) Unitary business group.

22 (A) The term "unitary business group" means a group  
23 of persons related through common ownership whose  
24 business activities are integrated with, dependent  
25 upon and contribute to each other. The group will not  
26 include those members whose business activity outside

1 the United States is 80% or more of any such member's  
2 total business activity; for purposes of this  
3 paragraph and clause (a)(3)(B)(ii) of Section 304,  
4 business activity within the United States shall be  
5 measured by means of the factors ordinarily applicable  
6 under subsections (a), (b), (c), (d), or (h) of Section  
7 304 except that, in the case of members ordinarily  
8 required to apportion business income by means of the 3  
9 factor formula of property, payroll and sales  
10 specified in subsection (a) of Section 304, including  
11 the formula as weighted in subsection (h) of Section  
12 304, such members shall not use the sales factor in the  
13 computation and the results of the property and payroll  
14 factor computations of subsection (a) of Section 304  
15 shall be divided by 2 (by one if either the property or  
16 payroll factor has a denominator of zero). The  
17 computation required by the preceding sentence shall,  
18 in each case, involve the division of the member's  
19 property, payroll, or revenue miles in the United  
20 States, insurance premiums on property or risk in the  
21 United States, or financial organization business  
22 income from sources within the United States, as the  
23 case may be, by the respective worldwide figures for  
24 such items. Common ownership in the case of  
25 corporations is the direct or indirect control or  
26 ownership of more than 50% of the outstanding voting

1 stock of the persons carrying on unitary business  
2 activity. Unitary business activity can ordinarily be  
3 illustrated where the activities of the members are:  
4 (1) in the same general line (such as manufacturing,  
5 wholesaling, retailing of tangible personal property,  
6 insurance, transportation or finance); or (2) are  
7 steps in a vertically structured enterprise or process  
8 (such as the steps involved in the production of  
9 natural resources, which might include exploration,  
10 mining, refining, and marketing); and, in either  
11 instance, the members are functionally integrated  
12 through the exercise of strong centralized management  
13 (where, for example, authority over such matters as  
14 purchasing, financing, tax compliance, product line,  
15 personnel, marketing and capital investment is not  
16 left to each member).

17 (B) In no event, shall ~~however, will~~ any unitary  
18 business group include members which are ordinarily  
19 required to apportion business income under different  
20 subsections of Section 304 except that for tax years  
21 ending on or after December 31, 1987 this prohibition  
22 shall not apply to a holding company that would  
23 otherwise be a member of a unitary business group with  
24 taxpayers that apportion business income under any of  
25 subsections (b), (c), or (d) of Section 304 ~~unitary~~  
26 ~~business group composed of one or more taxpayers all of~~

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

1           (C) Holding companies.

2           (i) For purposes of this subparagraph, a  
3           "holding company" is a corporation (other than a  
4           corporation that is a financial organization under  
5           paragraph (8) of this subsection (a) of Section  
6           1501 because it is a bank holding company under the  
7           provisions of the Bank Holding Company Act of 1956  
8           (12 U.S.C. 1841, et seq.) or because it is owned by  
9           a bank or a bank holding company) that owns a  
10          controlling interest in one or more other  
11          taxpayers ("controlled taxpayers"); that, during  
12          the taxable year and the two immediately preceding  
13          taxable years, derived substantially all its gross  
14          income from dividends, interest, rents, royalties,  
15          fees or other charges received from controlled  
16          taxpayers for the provision of services, and gains  
17          on the sale or other disposition of interests in  
18          controlled taxpayers or in property leased or  
19          licensed to controlled taxpayers or used by the  
20          taxpayer in providing services to controlled  
21          taxpayers; and that incurs no substantial expenses  
22          other than expenses (including interest and other  
23          costs of borrowing) incurred in connection with  
24          the acquisition and holding of interests in  
25          controlled taxpayers and in the provision of  
26          services to controlled taxpayers or in the leasing



1 or licensing of property to controlled taxpayers.

2 (ii) The income of a holding company which is a  
3 member of more than one unitary business group  
4 shall be included in each unitary business group of  
5 which it is a member on a pro rata basis, by  
6 including in each unitary business group that  
7 portion of the base income of the holding company  
8 that bears the same proportion to the total base  
9 income of the holding company as the gross receipts  
10 of the unitary business group bears to the combined  
11 gross receipts of all unitary business groups (in  
12 both cases without regard to the holding company)  
13 or on any other reasonable basis, consistently  
14 applied.

15 (iii) A holding company shall apportion its  
16 business income under the subsection of Section  
17 304 used by the other members of its unitary  
18 business group. The apportionment factors of a  
19 holding company which would be a member of more  
20 than one unitary business group shall be included  
21 with the apportionment factors of each unitary  
22 business group of which it is a member on a pro  
23 rata basis using the same method used in clause  
24 (ii).

25 (iv) The provisions of this subparagraph (C)  
26 are intended to clarify existing law.

1           (D) If including the base income and factors of a  
2           holding company in more than one unitary business group  
3           under subparagraph (C) does not fairly reflect the  
4           degree of integration between the holding company and  
5           one or more of the unitary business groups, the  
6           dependence of the holding company and one or more of  
7           the unitary business groups upon each other, or the  
8           contributions between the holding company and one or  
9           more of the unitary business groups, the holding  
10           company may petition the Director, under the  
11           procedures provided under Section 304(f), for  
12           permission to include all base income and factors of  
13           the holding company only with members of a unitary  
14           business group apportioning their business income  
15           under one subsection of subsections (a), (b), (c), or  
16           (d) of Section 304. If the petition is granted, the  
17           holding company shall be included in a unitary business  
18           group only with persons apportioning their business  
19           income under the selected subsection of Section 304  
20           until the Director grants a petition of the holding  
21           company either to be included in more than one unitary  
22           business group under subparagraph (C) or to include its  
23           base income and factors only with members of a unitary  
24           business group apportioning their business income  
25           under a different subsection of Section 304.

26           (E) If the unitary business group members'

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

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

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

1 activity.

2 (b) Other definitions.

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

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

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

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

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

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

22 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;  
23 96-641, eff. 8-24-09.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.

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3	35 ILCS 5/203	from Ch. 120, par. 2-203
4	35 ILCS 5/204	from Ch. 120, par. 2-204
5	35 ILCS 5/205	from Ch. 120, par. 2-205
6	35 ILCS 5/207	from Ch. 120, par. 2-207
7	35 ILCS 5/214	
8	35 ILCS 5/220	
9	35 ILCS 5/304	from Ch. 120, par. 3-304
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18	35 ILCS 5/804	from Ch. 120, par. 8-804
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21	35 ILCS 5/1002	from Ch. 120, par. 10-1002
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