



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB3451**

Introduced 2/24/2011, by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/303

from Ch. 120, par. 3-303

Amends the Illinois Income Tax Act. Provides that unemployment benefits paid by the Illinois Department of Employment Security are allocable to this State. Effective immediately.

LRB097 08280 HLH 48406 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 Section 303 as follows:

6 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

7 Sec. 303. (a) In general. Any item of capital gain or loss,  
8 and any item of income from rents or royalties from real or  
9 tangible personal property, interest, dividends, and patent or  
10 copyright royalties, and prizes awarded under the Illinois  
11 Lottery Law, to the extent such item constitutes nonbusiness  
12 income, together with any item of deduction directly allocable  
13 thereto, shall be allocated by any person other than a resident  
14 as provided in this Section.

15 (b) Capital gains and losses. (1) Real property. Capital  
16 gains and losses from sales or exchanges of real property are  
17 allocable to this State if the property is located in this  
18 State.

19 (2) Tangible personal property. Capital gains and losses  
20 from sales or exchanges of tangible personal property are  
21 allocable to this State if, at the time of such sale or  
22 exchange:

23 (A) The property had its situs in this State; or

1           (B) The taxpayer had its commercial domicile in this State  
2 and was not taxable in the state in which the property had its  
3 situs.

4           (3) Intangibles. Capital gains and losses from sales or  
5 exchanges of intangible personal property are allocable to this  
6 State if the taxpayer had its commercial domicile in this State  
7 at the time of such sale or exchange.

8           (c) Rents and royalties. (1) Real property. Rents and  
9 royalties from real property are allocable to this State if the  
10 property is located in this State.

11           (2) Tangible personal property. Rents and royalties from  
12 tangible personal property are allocable to this State:

13           (A) If and to the extent that the property is utilized in  
14 this State; or

15           (B) In their entirety if, at the time such rents or  
16 royalties were paid or accrued, the taxpayer had its commercial  
17 domicile in this State and was not organized under the laws of  
18 or taxable with respect to such rents or royalties in the state  
19 in which the property was utilized. The extent of utilization  
20 of tangible personal property in a state is determined by  
21 multiplying the rents or royalties derived from such property  
22 by a fraction, the numerator of which is the number of days of  
23 physical location of the property in the state during the  
24 rental or royalty period in the taxable year and the  
25 denominator of which is the number of days of physical location  
26 of the property everywhere during all rental or royalty periods

1 in the taxable year. If the physical location of the property  
2 during the rental or royalty period is unknown or  
3 unascertainable by the taxpayer, tangible personal property is  
4 utilized in the state in which the property was located at the  
5 time the rental or royalty payer obtained possession.

6 (d) Patent and copyright royalties.

7 (1) Allocation. Patent and copyright royalties are  
8 allocable to this State:

9 (A) If and to the extent that the patent or copyright is  
10 utilized by the payer in this State; or

11 (B) If and to the extent that the patent or copyright is  
12 utilized by the payer in a state in which the taxpayer is not  
13 taxable with respect to such royalties and, at the time such  
14 royalties were paid or accrued, the taxpayer had its commercial  
15 domicile in this State.

16 (2) Utilization.

17 (A) A patent is utilized in a state to the extent that it  
18 is employed in production, fabrication, manufacturing or other  
19 processing in the state or to the extent that a patented  
20 product is produced in the state. If the basis of receipts from  
21 patent royalties does not permit allocation to states or if the  
22 accounting procedures do not reflect states of utilization, the  
23 patent is utilized in this State if the taxpayer has its  
24 commercial domicile in this State.

25 (B) A copyright is utilized in a state to the extent that  
26 printing or other publication originates in the state. If the

1 basis of receipts from copyright royalties does not permit  
2 allocation to states or if the accounting procedures do not  
3 reflect states of utilization, the copyright is utilized in  
4 this State if the taxpayer has its commercial domicile in this  
5 State.

6 (e) Illinois lottery prizes. Prizes awarded under the  
7 "Illinois Lottery Law", approved December 14, 1973, are  
8 allocable to this State.

9 (e-5) Unemployment benefits. Unemployment benefits paid by  
10 the Illinois Department of Employment Security are allocable to  
11 this State.

12 (f) Taxability in other state. For purposes of allocation  
13 of income pursuant to this Section, a taxpayer is taxable in  
14 another state if:

15 (1) In that state he is subject to a net income tax, a  
16 franchise tax measured by net income, a franchise tax for the  
17 privilege of doing business, or a corporate stock tax; or

18 (2) That state has jurisdiction to subject the taxpayer to  
19 a net income tax regardless of whether, in fact, the state does  
20 or does not.

21 (g) Cross references. (1) For allocation of interest and  
22 dividends by persons other than residents, see Section  
23 301(c)(2).

24 (2) For allocation of nonbusiness income by residents, see  
25 Section 301(a).

26 (Source: P.A. 79-743.)

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.