



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5866

Introduced 2/16/2012, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-380	was 20 ILCS 2505/39b47
30 ILCS 105/13.3	from Ch. 127, par. 149.3
35 ILCS 5/303	from Ch. 120, par. 3-303
35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/701	from Ch. 120, par. 7-701
35 ILCS 5/710	from Ch. 120, par. 7-710
35 ILCS 5/905	from Ch. 120, par. 9-905
35 ILCS 105/9	from Ch. 120, par. 439.9
35 ILCS 120/2a	from Ch. 120, par. 441a

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Provides that the Department may revoke a certificate of registration, permit, or license of an entity that is in default for moneys due to the Department. Amends the State Finance Act to provide that the Department of Revenue may maintain a petty cash fund not to exceed \$2,000. Amends the Illinois Income Tax Act. Provides that payments received in taxable years ending on or after December 31, 2012 from (i) the assignment of a prize under Section 13.1 of the Illinois Lottery Law, (ii) payments of winnings from pari-mutuel wagering conducted at a wagering facility licensed under the Illinois Horse Racing Act of 1975, and (iii) gambling games conducted on a riverboat licensed under the Riverboat Gambling Act are allocable to this State. Amends the Use Tax Act. Provides that retailers that do not possess a valid certificate of registration at the time the sale or sales are made upon which the discount is taken are not entitled to a vendor's discount under the Act.

LRB097 18416 HLH 63642 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-380 as follows:

7 (20 ILCS 2505/2505-380) (was 20 ILCS 2505/39b47)

8 Sec. 2505-380. Revocation of or refusal to issue a
9 certificate of registration, permit, or license. The
10 Department has the power to refuse to issue or, after notice
11 and an opportunity for a hearing, to revoke a certificate of
12 registration, permit, or license issued or authorized to be
13 issued by the Department if the applicant for or holder of the
14 certificate of registration, permit, or license fails to file a
15 return, or to pay the tax, fee, penalty, or interest shown in a
16 filed return, or to pay any final assessment of tax, fee,
17 penalty, or interest, as required by the tax or fee Act under
18 which the certificate of registration, permit, or license is
19 required or any other tax or fee Act administered by the
20 Department. The Department may refuse to issue, or after notice
21 and an opportunity for a hearing, may revoke a certificate of
22 registration, permit, or license issued or authorized to be
23 issued by the Department if the owner, any partner, or a

1 corporate officer, and in the case of a limited liability
2 company, any manager or member, of the applicant for or holder
3 of the certificate of registration, permit or license, is or
4 has been the owner, a partner, a corporate officer, and in the
5 case of a limited liability company, a manager or member, of a
6 person that is in default for moneys due to the Department
7 under the tax or fee Act upon which the certificate of
8 registration, permit, or license is required or any other tax
9 or fee Act administered by the Department. For purposes of this
10 Section, "person" means any natural individual, firm,
11 partnership, association, joint stock company, joint
12 adventure, public or private corporation, limited liability
13 company, or a receiver, executor, trustee, guardian or other
14 representative appointed by order of any court.

15 The procedure for notice and hearing prior to revocation
16 shall be as provided under the Act pursuant to which the
17 certificate of registration, permit, or license was issued.

18 (Source: P.A. 91-239, eff. 1-1-00.)

19 Section 10. The State Finance Act is amended by changing
20 Section 13.3 as follows:

21 (30 ILCS 105/13.3) (from Ch. 127, par. 149.3)

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

23 (a) Any State agency may establish and maintain petty cash
24 funds for the purpose of making change, purchasing items of

1 small cost, payment of postage due, and for other nominal
2 expenditures which cannot be administered economically and
3 efficiently through customary procurement practices.

4 Petty cash funds may be established and maintained from
5 moneys which are appropriated to the agency for Contractual
6 Services. In the case of an agency which receives a single
7 appropriation for its ordinary and contingent expenses, the
8 agency may establish a petty cash fund from the appropriated
9 funds.

10 Before the establishment of any petty cash fund, the agency
11 shall submit to the State Comptroller a survey of the need for
12 the fund. The survey shall also establish that sufficient
13 internal accounting controls exist. The Comptroller shall
14 investigate such need and if he determines that it exists and
15 that adequate accounting controls exist, shall approve the
16 establishment of the fund. The Comptroller shall have the power
17 to revoke any approval previously made under this Section.

18 Petty cash funds established under this Section shall be
19 operated and maintained on the imprest system and no fund shall
20 exceed \$1,000, except that the Department of Revenue may
21 maintain a fund not exceeding \$2,000 for each Department of
22 Revenue facility and the Secretary of State may maintain a fund
23 of not exceeding \$2,000 for each Chicago Motor Vehicle
24 Facility, each Springfield Public Service Facility, and the
25 Motor Vehicle Facilities in Champaign, Decatur, Marion,
26 Naperville, Peoria, Rockford, Granite City, Quincy, and

1 Carbondale, to be used solely for the purpose of making change.
2 Except for purchases made by procurement card as provided in
3 subsection (b) of this Section, single transactions shall be
4 limited to amounts less than \$50, and all transactions
5 occurring in the fund shall be reported and accounted for as
6 may be provided in the uniform accounting system developed by
7 the State Comptroller and the rules and regulations
8 implementing that accounting system. All amounts in any such
9 fund of less than \$1,000 but over \$100 shall be kept in a
10 checking account in a bank, or savings and loan association or
11 trust company which is insured by the United States government
12 or any agency of the United States government, except that in
13 funds maintained in each Department of Revenue Facility,
14 Chicago Motor Vehicle Facilities, each Springfield Public
15 Service Facility, and the Motor Vehicle Facilities in
16 Champaign, Decatur, Marion, Naperville, Peoria, Rockford,
17 Granite City, Quincy, and Carbondale, all amounts in the fund
18 may be retained on the premises of such facilities.

19 No bank or savings and loan association shall receive
20 public funds as permitted by this Section, unless it has
21 complied with the requirements established pursuant to Section
22 6 of "An Act relating to certain investments of public funds by
23 public agencies", approved July 23, 1943, as now or hereafter
24 amended.

25 An internal audit shall be performed of any petty cash fund
26 which receives reimbursements of more than \$5,000 in a fiscal

1 year.

2 Upon succession in the custodianship of any petty cash
3 fund, both the former and successor custodians shall sign a
4 statement, in triplicate, showing the exact status of the fund
5 at the time of the transfer. The original copy shall be kept on
6 file in the office wherein the fund exists, and each signer
7 shall be entitled to retain one copy.

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

13 The rules of the Comptroller may include but shall not be
14 limited to:

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

17 (2) procedures for recording purchasing card
18 transactions within the State accounting system, which may
19 provide for summary reporting;

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

22 (4) standards for awarding contracts with a purchasing
23 card vendor to acquire purchasing cards for use by State
24 agencies; and

25 (5) procedures for the Comptroller to charge against
26 State agency appropriations for payment of purchasing card

1 expenditures without the use of the voucher and warrant
2 system.

3 (c) As used in this Section, "State agency" means any
4 department, officer, authority, public corporation,
5 quasi-public corporation, commission, board, institution,
6 State college or university, or other public agency created by
7 the State, other than units of local government and school
8 districts.

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

10 Section 15. The Illinois Income Tax Act is amended by
11 changing Sections 303, 304, 701, 710, and 905 as follows:

12 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

13 Sec. 303. (a) In general. Any item of capital gain or loss,
14 and any item of income from rents or royalties from real or
15 tangible personal property, interest, dividends, and patent or
16 copyright royalties, and prizes awarded under the Illinois
17 Lottery Law, and, for taxable years ending on or after December
18 31, 2012, wagering and gambling winnings from Illinois sources
19 as set forth in subsection (e), to the extent such item
20 constitutes nonbusiness income, together with any item of
21 deduction directly allocable thereto, shall be allocated by any
22 person other than a resident as provided in this Section.

23 (b) Capital gains and losses. (1) Real property. Capital
24 gains and losses from sales or exchanges of real property are

1 allocable to this State if the property is located in this
2 State.

3 (2) Tangible personal property. Capital gains and losses
4 from sales or exchanges of tangible personal property are
5 allocable to this State if, at the time of such sale or
6 exchange:

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

8 (B) The taxpayer had its commercial domicile in this State
9 and was not taxable in the state in which the property had its
10 situs.

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

15 (c) Rents and royalties. (1) Real property. Rents and
16 royalties from real property are allocable to this State if the
17 property is located in this State.

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

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

22 (B) In their entirety if, at the time such rents or
23 royalties were paid or accrued, the taxpayer had its commercial
24 domicile in this State and was not organized under the laws of
25 or taxable with respect to such rents or royalties in the state
26 in which the property was utilized. The extent of utilization

1 of tangible personal property in a state is determined by
2 multiplying the rents or royalties derived from such property
3 by a fraction, the numerator of which is the number of days of
4 physical location of the property in the state during the
5 rental or royalty period in the taxable year and the
6 denominator of which is the number of days of physical location
7 of the property everywhere during all rental or royalty periods
8 in the taxable year. If the physical location of the property
9 during the rental or royalty period is unknown or
10 unascertainable by the taxpayer, tangible personal property is
11 utilized in the state in which the property was located at the
12 time the rental or royalty payer obtained possession.

13 (d) Patent and copyright royalties.

14 (1) Allocation. Patent and copyright royalties are
15 allocable to this State:

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

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

23 (2) Utilization.

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

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

6 (B) A copyright is utilized in a state to the extent that
7 printing or other publication originates in the state. If the
8 basis of receipts from copyright royalties does not permit
9 allocation to states or if the accounting procedures do not
10 reflect states of utilization, the copyright is utilized in
11 this State if the taxpayer has its commercial domicile in this
12 State.

13 (e) Illinois lottery; wagering and gambling winnings;
14 prizes. Prizes awarded under the Illinois Lottery Law ~~"Illinois~~
15 ~~Lottery Law", approved December 14, 1973,~~ are allocable to this
16 State. Payments received in taxable years ending on or after
17 December 31, 2012, from (i) the assignment of a prize under
18 Section 13.1 of the Illinois Lottery Law, (ii) payments of
19 winnings from pari-mutuel wagering conducted at a wagering
20 facility licensed under the Illinois Horse Racing Act of 1975,
21 and (iii) gambling games conducted on a riverboat licensed
22 under the Riverboat Gambling Act are allocable to this State.

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

26 (1) In that state he is subject to a net income tax, a

1 franchise tax measured by net income, a franchise tax for the
2 privilege of doing business, or a corporate stock tax; or

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

6 (g) Cross references. (1) For allocation of interest and
7 dividends by persons other than residents, see Section
8 301(c)(2).

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

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

12 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

13 (Text of Section before amendment by P.A. 97-636)

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

15 (a) In general. The business income of a person other than
16 a resident shall be allocated to this State if such person's
17 business income is derived solely from this State. If a person
18 other than a resident derives business income from this State
19 and one or more other states, then, for tax years ending on or
20 before December 30, 1998, and except as otherwise provided by
21 this Section, such person's business income shall be
22 apportioned to this State by multiplying the income by a
23 fraction, the numerator of which is the sum of the property
24 factor (if any), the payroll factor (if any) and 200% of the
25 sales factor (if any), and the denominator of which is 4

1 reduced by the number of factors other than the sales factor
2 which have a denominator of zero and by an additional 2 if the
3 sales factor has a denominator of zero. For tax years ending on
4 or after December 31, 1998, and except as otherwise provided by
5 this Section, persons other than residents who derive business
6 income from this State and one or more other states shall
7 compute their apportionment factor by weighting their
8 property, payroll, and sales factors as provided in subsection
9 (h) of this Section.

10 (1) Property factor.

11 (A) The property factor is a fraction, the numerator of
12 which is the average value of the person's real and
13 tangible personal property owned or rented and used in the
14 trade or business in this State during the taxable year and
15 the denominator of which is the average value of all the
16 person's real and tangible personal property owned or
17 rented and used in the trade or business during the taxable
18 year.

19 (B) Property owned by the person is valued at its
20 original cost. Property rented by the person is valued at 8
21 times the net annual rental rate. Net annual rental rate is
22 the annual rental rate paid by the person less any annual
23 rental rate received by the person from sub-rentals.

24 (C) The average value of property shall be determined
25 by averaging the values at the beginning and ending of the
26 taxable year but the Director may require the averaging of

1 monthly values during the taxable year if reasonably
2 required to reflect properly the average value of the
3 person's property.

4 (2) Payroll factor.

5 (A) The payroll factor is a fraction, the numerator of
6 which is the total amount paid in this State during the
7 taxable year by the person for compensation, and the
8 denominator of which is the total compensation paid
9 everywhere during the taxable year.

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

11 (i) The individual's service is performed entirely
12 within this State;

13 (ii) The individual's service is performed both
14 within and without this State, but the service
15 performed without this State is incidental to the
16 individual's service performed within this State; or

17 (iii) Some of the service is performed within this
18 State and either the base of operations, or if there is
19 no base of operations, the place from which the service
20 is directed or controlled is within this State, or the
21 base of operations or the place from which the service
22 is directed or controlled is not in any state in which
23 some part of the service is performed, but the
24 individual's residence is in this State.

25 (iv) Compensation paid to nonresident professional
26 athletes.

1 (a) General. The Illinois source income of a
2 nonresident individual who is a member of a
3 professional athletic team includes the portion of the
4 individual's total compensation for services performed
5 as a member of a professional athletic team during the
6 taxable year which the number of duty days spent within
7 this State performing services for the team in any
8 manner during the taxable year bears to the total
9 number of duty days spent both within and without this
10 State during the taxable year.

11 (b) Travel days. Travel days that do not involve
12 either a game, practice, team meeting, or other similar
13 team event are not considered duty days spent in this
14 State. However, such travel days are considered in the
15 total duty days spent both within and without this
16 State.

17 (c) Definitions. For purposes of this subpart
18 (iv):

19 (1) The term "professional athletic team"
20 includes, but is not limited to, any professional
21 baseball, basketball, football, soccer, or hockey
22 team.

23 (2) The term "member of a professional
24 athletic team" includes those employees who are
25 active players, players on the disabled list, and
26 any other persons required to travel and who travel

1 with and perform services on behalf of a
2 professional athletic team on a regular basis.
3 This includes, but is not limited to, coaches,
4 managers, and trainers.

5 (3) Except as provided in items (C) and (D) of
6 this subpart (3), the term "duty days" means all
7 days during the taxable year from the beginning of
8 the professional athletic team's official
9 pre-season training period through the last game
10 in which the team competes or is scheduled to
11 compete. Duty days shall be counted for the year in
12 which they occur, including where a team's
13 official pre-season training period through the
14 last game in which the team competes or is
15 scheduled to compete, occurs during more than one
16 tax year.

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

1 (B) Also included in duty days are game
2 days, practice days, days spent at team
3 meetings, promotional caravans, preseason
4 training camps, and days served with the team
5 through all post-season games in which the team
6 competes or is scheduled to compete.

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

20 (D) Days for which a member of a
21 professional athletic team is not compensated
22 and is not performing services for the team in
23 any manner, including days when such member of
24 a professional athletic team has been
25 suspended without pay and prohibited from
26 performing any services for the team, shall not

1 be treated as duty days.

2 (E) Days for which a member of a
3 professional athletic team is on the disabled
4 list and does not conduct rehabilitation
5 activities at facilities of the team, and is
6 not otherwise performing services for the team
7 in Illinois, shall not be considered duty days
8 spent in this State. All days on the disabled
9 list, however, are considered to be included in
10 total duty days spent both within and without
11 this State.

12 (4) The term "total compensation for services
13 performed as a member of a professional athletic
14 team" means the total compensation received during
15 the taxable year for services performed:

16 (A) from the beginning of the official
17 pre-season training period through the last
18 game in which the team competes or is scheduled
19 to compete during that taxable year; and

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

24 This compensation shall include, but is not
25 limited to, salaries, wages, bonuses as described
26 in this subpart, and any other type of compensation

1 paid during the taxable year to a member of a
2 professional athletic team for services performed
3 in that year. This compensation does not include
4 strike benefits, severance pay, termination pay,
5 contract or option year buy-out payments,
6 expansion or relocation payments, or any other
7 payments not related to services performed for the
8 team.

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

26 (3) Sales factor.

1 (A) The sales factor is a fraction, the numerator of
2 which is the total sales of the person in this State during
3 the taxable year, and the denominator of which is the total
4 sales of the person everywhere during the taxable year.

5 (B) Sales of tangible personal property are in this
6 State if:

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

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

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

3 (i) Gross receipts from the licensing, sale, or
4 other disposition of a patent, copyright, trademark,
5 or similar item of intangible personal property, other
6 than gross receipts governed by paragraph (B-7) of this
7 item (3), are in this State to the extent the item is
8 utilized in this State during the year the gross
9 receipts are included in gross income.

10 (ii) Place of utilization.

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

25 (II) A copyright is utilized in a state to the
26 extent that printing or other publication

1 originates in the state. If a copyright is utilized
2 in more than one state, the extent to which it is
3 utilized in any one state shall be a fraction equal
4 to the gross receipts from sales or licenses of
5 materials printed or published in that state
6 divided by the total of such gross receipts for all
7 states in which the copyright is utilized.

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

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

21 (B-2) Gross receipts from the license, sale, or other
22 disposition of patents, copyrights, trademarks, and
23 similar items of intangible personal property, other than
24 gross receipts governed by paragraph (B-7) of this item
25 (3), may be included in the numerator or denominator of the
26 sales factor only if gross receipts from licenses, sales,

1 or other disposition of such items comprise more than 50%
2 of the taxpayer's total gross receipts included in gross
3 income during the tax year and during each of the 2
4 immediately preceding tax years; provided that, when a
5 taxpayer is a member of a unitary business group, such
6 determination shall be made on the basis of the gross
7 receipts of the entire unitary business group.

8 (B-5) For taxable years ending on or after December 31,
9 2008, except as provided in subsections (ii) through (vii),
10 receipts from the sale of telecommunications service or
11 mobile telecommunications service are in this State if the
12 customer's service address is in this State.

13 (i) For purposes of this subparagraph (B-5), the
14 following terms have the following meanings:

15 "Ancillary services" means services that are
16 associated with or incidental to the provision of
17 "telecommunications services", including but not
18 limited to "detailed telecommunications billing",
19 "directory assistance", "vertical service", and "voice
20 mail services".

21 "Air-to-Ground Radiotelephone service" means a
22 radio service, as that term is defined in 47 CFR 22.99,
23 in which common carriers are authorized to offer and
24 provide radio telecommunications service for hire to
25 subscribers in aircraft.

26 "Call-by-call Basis" means any method of charging

1 for telecommunications services where the price is
2 measured by individual calls.

3 "Communications Channel" means a physical or
4 virtual path of communications over which signals are
5 transmitted between or among customer channel
6 termination points.

7 "Conference bridging service" means an "ancillary
8 service" that links two or more participants of an
9 audio or video conference call and may include the
10 provision of a telephone number. "Conference bridging
11 service" does not include the "telecommunications
12 services" used to reach the conference bridge.

13 "Customer Channel Termination Point" means the
14 location where the customer either inputs or receives
15 the communications.

16 "Detailed telecommunications billing service"
17 means an "ancillary service" of separately stating
18 information pertaining to individual calls on a
19 customer's billing statement.

20 "Directory assistance" means an "ancillary
21 service" of providing telephone number information,
22 and/or address information.

23 "Home service provider" means the facilities based
24 carrier or reseller with which the customer contracts
25 for the provision of mobile telecommunications
26 services.

1 "Mobile telecommunications service" means
2 commercial mobile radio service, as defined in Section
3 20.3 of Title 47 of the Code of Federal Regulations as
4 in effect on June 1, 1999.

5 "Place of primary use" means the street address
6 representative of where the customer's use of the
7 telecommunications service primarily occurs, which
8 must be the residential street address or the primary
9 business street address of the customer. In the case of
10 mobile telecommunications services, "place of primary
11 use" must be within the licensed service area of the
12 home service provider.

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

25 "Prepaid telecommunication service" means the
26 right to access exclusively telecommunications

1 services, which must be paid for in advance and which
2 enables the origination of calls using an access number
3 or authorization code, whether manually or
4 electronically dialed, and that is sold in
5 predetermined units or dollars of which the number
6 declines with use in a known amount.

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

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

24 "Service address" means:

25 (a) The location of the telecommunications
26 equipment to which a customer's call is charged and

1 from which the call originates or terminates,
2 regardless of where the call is billed or paid;

3 (b) If the location in line (a) is not known,
4 service address means the origination point of the
5 signal of the telecommunications services first
6 identified by either the seller's
7 telecommunications system or in information
8 received by the seller from its service provider
9 where the system used to transport such signals is
10 not that of the seller; and

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

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

1 (a) Data processing and information services
2 that allow data to be generated, acquired, stored,
3 processed, or retrieved and delivered by an
4 electronic transmission to a purchaser when such
5 purchaser's primary purpose for the underlying
6 transaction is the processed data or information;

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

9 (c) Tangible personal property;

10 (d) Advertising, including but not limited to
11 directory advertising.

12 (e) Billing and collection services provided
13 to third parties;

14 (f) Internet access service;

15 (g) Radio and television audio and video
16 programming services, regardless of the medium,
17 including the furnishing of transmission,
18 conveyance and routing of such services by the
19 programming service provider. Radio and television
20 audio and video programming services shall include
21 but not be limited to cable service as defined in
22 47 USC 522(6) and audio and video programming
23 services delivered by commercial mobile radio
24 service providers, as defined in 47 CFR 20.3;

25 (h) "Ancillary services"; or

26 (i) Digital products "delivered

1 electronically", including but not limited to
2 software, music, video, reading materials or ring
3 tones.

4 "Vertical service" means an "ancillary service"
5 that is offered in connection with one or more
6 "telecommunications services", which offers advanced
7 calling features that allow customers to identify
8 callers and to manage multiple calls and call
9 connections, including "conference bridging services".

10 "Voice mail service" means an "ancillary service"
11 that enables the customer to store, send or receive
12 recorded messages. "Voice mail service" does not
13 include any "vertical services" that the customer may
14 be required to have in order to utilize the "voice mail
15 service".

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

19 (a) The call both originates and terminates in
20 this State.

21 (b) The call either originates or terminates
22 in this State and the service address is located in
23 this State.

24 (iii) Receipts from the sale of postpaid
25 telecommunications service at retail are in this State
26 if the origination point of the telecommunication

1 signal, as first identified by the service provider's
2 telecommunication system or as identified by
3 information received by the seller from its service
4 provider if the system used to transport
5 telecommunication signals is not the seller's, is
6 located in this State.

7 (iv) Receipts from the sale of prepaid
8 telecommunications service or prepaid mobile
9 telecommunications service at retail are in this State
10 if the purchaser obtains the prepaid card or similar
11 means of conveyance at a location in this State.
12 Receipts from recharging a prepaid telecommunications
13 service or mobile telecommunications service is in
14 this State if the purchaser's billing information
15 indicates a location in this State.

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

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

20 (b) 100% of receipts from charges for the total
21 channel mileage between each channel termination
22 point in this State.

23 (c) 50% of the total receipts from charges for
24 service segments when those segments are between 2
25 customer channel termination points, 1 of which is
26 located in this State and the other is located

1 outside of this State, which segments are
2 separately charged.

3 (d) The receipts from charges for service
4 segments with a channel termination point located
5 in this State and in two or more other states, and
6 which segments are not separately billed, are in
7 this State based on a percentage determined by
8 dividing the number of customer channel
9 termination points in this State by the total
10 number of customer channel termination points.

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

20 (vii) Receipts to access a carrier's network or
21 from the sale of telecommunication services or
22 ancillary services for resale are in this State as
23 follows:

24 (a) 100% of the receipts from access fees
25 attributable to intrastate telecommunications
26 service that both originates and terminates in

1 this State.

2 (b) 50% of the receipts from access fees
3 attributable to interstate telecommunications
4 service if the interstate call either originates
5 or terminates in this State.

6 (c) 100% of the receipts from interstate end
7 user access line charges, if the customer's
8 service address is in this State. As used in this
9 subdivision, "interstate end user access line
10 charges" includes, but is not limited to, the
11 surcharge approved by the federal communications
12 commission and levied pursuant to 47 CFR 69.

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

24 (B-7) For taxable years ending on or after December 31,
25 2008, receipts from the sale of broadcasting services are
26 in this State if the broadcasting services are received in

1 this State. For purposes of this paragraph (B-7), the
2 following terms have the following meanings:

3 "Advertising revenue" means consideration received
4 by the taxpayer in exchange for broadcasting services
5 or allowing the broadcasting of commercials or
6 announcements in connection with the broadcasting of
7 film or radio programming, from sponsorships of the
8 programming, or from product placements in the
9 programming.

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

21 "Broadcast" or "broadcasting" or "broadcasting
22 services" means the transmission or provision of film
23 or radio programming, whether through the public
24 airwaves, by cable, by direct or indirect satellite
25 transmission, or by any other means of communication,
26 either through a station, a network, or a cable system.

1 "Film" or "film programming" means the broadcast
2 on television of any and all performances, events, or
3 productions, including but not limited to news,
4 sporting events, plays, stories, or other literary,
5 commercial, educational, or artistic works, either
6 live or through the use of video tape, disc, or any
7 other type of format or medium. Each episode of a
8 series of films produced for television shall
9 constitute separate "film" notwithstanding that the
10 series relates to the same principal subject and is
11 produced during one or more tax periods.

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

24 (i) In the case of advertising revenue from
25 broadcasting, the customer is the advertiser and
26 the service is received in this State if the

1 commercial domicile of the advertiser is in this
2 State.

3 (ii) In the case where film or radio
4 programming is broadcast by a station, a network,
5 or a cable system for a fee or other remuneration
6 received from the recipient of the broadcast, the
7 portion of the service that is received in this
8 State is measured by the portion of the recipients
9 of the broadcast located in this State.
10 Accordingly, the fee or other remuneration for
11 such service that is included in the Illinois
12 numerator of the sales factor is the total of those
13 fees or other remuneration received from
14 recipients in Illinois. For purposes of this
15 paragraph, a taxpayer may determine the location
16 of the recipients of its broadcast using the
17 address of the recipient shown in its contracts
18 with the recipient or using the billing address of
19 the recipient in the taxpayer's records.

20 (iii) In the case where film or radio
21 programming is broadcast by a station, a network,
22 or a cable system for a fee or other remuneration
23 from the person providing the programming, the
24 portion of the broadcast service that is received
25 by such station, network, or cable system in this
26 State is measured by the portion of recipients of

1 the broadcast located in this State. Accordingly,
2 the amount of revenue related to such an
3 arrangement that is included in the Illinois
4 numerator of the sales factor is the total fee or
5 other total remuneration from the person providing
6 the programming related to that broadcast
7 multiplied by the Illinois audience factor for
8 that broadcast.

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

22 (v) In the case where film or radio programming
23 is provided by a taxpayer that is not a network or
24 station to another person for broadcasting in
25 exchange for a fee or other remuneration from that
26 person, the broadcasting service is received at

1 the location of the office of the customer from
2 which the services were ordered in the regular
3 course of the customer's trade or business.
4 Accordingly, in such a case the revenue derived by
5 the taxpayer that is included in the taxpayer's
6 Illinois numerator of the sales factor is the
7 revenue from such customers who receive the
8 broadcasting service in Illinois.

9 (B-8) Gross receipts from winnings under the Illinois
10 Lottery Law, from the assignment of a prize under Section
11 13.1 the Illinois Lottery Law, from winnings from
12 pari-mutuel wagering conducted at a wagering facility
13 licensed under the Illinois Horse Racing Act of 1975 or
14 from winnings from gambling games conducted on a riverboat
15 licensed under the Riverboat Gambling Act are in this
16 State. This paragraph (B-8) applies only to taxable years
17 ending on or after December 31, 2012.

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

21 (i) The income-producing activity is performed in
22 this State; or

23 (ii) The income-producing activity is performed
24 both within and without this State and a greater
25 proportion of the income-producing activity is
26 performed within this State than without this State,

1 based on performance costs.

2 (C-5) For taxable years ending on or after December 31,
3 2008, sales, other than sales governed by paragraphs (B),
4 (B-1), (B-2), (B-5), ~~and~~ (B-7), and (B-8) are in this State
5 if any of the following criteria are met:

6 (i) Sales from the sale or lease of real property
7 are in this State if the property is located in this
8 State.

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

18 (iii) In the case of interest, net gains (but not
19 less than zero) and other items of income from
20 intangible personal property, the sale is in this State
21 if:

22 (a) in the case of a taxpayer who is a dealer
23 in the item of intangible personal property within
24 the meaning of Section 475 of the Internal Revenue
25 Code, the income or gain is received from a
26 customer in this State. For purposes of this

1 subparagraph, a customer is in this State if the
2 customer is an individual, trust or estate who is a
3 resident of this State and, for all other
4 customers, if the customer's commercial domicile
5 is in this State. Unless the dealer has actual
6 knowledge of the residence or commercial domicile
7 of a customer during a taxable year, the customer
8 shall be deemed to be a customer in this State if
9 the billing address of the customer, as shown in
10 the records of the dealer, is in this State; or

11 (b) in all other cases, if the
12 income-producing activity of the taxpayer is
13 performed in this State or, if the
14 income-producing activity of the taxpayer is
15 performed both within and without this State, if a
16 greater proportion of the income-producing
17 activity of the taxpayer is performed within this
18 State than in any other state, based on performance
19 costs.

20 (iv) Sales of services are in this State if the
21 services are received in this State. For the purposes
22 of this section, gross receipts from the performance of
23 services provided to a corporation, partnership, or
24 trust may only be attributed to a state where that
25 corporation, partnership, or trust has a fixed place of
26 business. If the state where the services are received

1 is not readily determinable or is a state where the
2 corporation, partnership, or trust receiving the
3 service does not have a fixed place of business, the
4 services shall be deemed to be received at the location
5 of the office of the customer from which the services
6 were ordered in the regular course of the customer's
7 trade or business. If the ordering office cannot be
8 determined, the services shall be deemed to be received
9 at the office of the customer to which the services are
10 billed. If the taxpayer is not taxable in the state in
11 which the services are received, the sale must be
12 excluded from both the numerator and the denominator of
13 the sales factor. The Department shall adopt rules
14 prescribing where specific types of service are
15 received, including, but not limited to, publishing,
16 and utility service.

17 (D) For taxable years ending on or after December 31,
18 1995, the following items of income shall not be included
19 in the numerator or denominator of the sales factor:
20 dividends; amounts included under Section 78 of the
21 Internal Revenue Code; and Subpart F income as defined in
22 Section 952 of the Internal Revenue Code. No inference
23 shall be drawn from the enactment of this paragraph (D) in
24 construing this Section for taxable years ending before
25 December 31, 1995.

26 (E) Paragraphs (B-1) and (B-2) shall apply to tax years

1 ending on or after December 31, 1999, provided that a
2 taxpayer may elect to apply the provisions of these
3 paragraphs to prior tax years. Such election shall be made
4 in the form and manner prescribed by the Department, shall
5 be irrevocable, and shall apply to all tax years; provided
6 that, if a taxpayer's Illinois income tax liability for any
7 tax year, as assessed under Section 903 prior to January 1,
8 1999, was computed in a manner contrary to the provisions
9 of paragraphs (B-1) or (B-2), no refund shall be payable to
10 the taxpayer for that tax year to the extent such refund is
11 the result of applying the provisions of paragraph (B-1) or
12 (B-2) retroactively. In the case of a unitary business
13 group, such election shall apply to all members of such
14 group for every tax year such group is in existence, but
15 shall not apply to any taxpayer for any period during which
16 that taxpayer is not a member of such group.

17 (b) Insurance companies.

18 (1) In general. Except as otherwise provided by
19 paragraph (2), business income of an insurance company for
20 a taxable year shall be apportioned to this State by
21 multiplying such income by a fraction, the numerator of
22 which is the direct premiums written for insurance upon
23 property or risk in this State, and the denominator of
24 which is the direct premiums written for insurance upon
25 property or risk everywhere. For purposes of this
26 subsection, the term "direct premiums written" means the

1 total amount of direct premiums written, assessments and
2 annuity considerations as reported for the taxable year on
3 the annual statement filed by the company with the Illinois
4 Director of Insurance in the form approved by the National
5 Convention of Insurance Commissioners or such other form as
6 may be prescribed in lieu thereof.

7 (2) Reinsurance. If the principal source of premiums
8 written by an insurance company consists of premiums for
9 reinsurance accepted by it, the business income of such
10 company shall be apportioned to this State by multiplying
11 such income by a fraction, the numerator of which is the
12 sum of (i) direct premiums written for insurance upon
13 property or risk in this State, plus (ii) premiums written
14 for reinsurance accepted in respect of property or risk in
15 this State, and the denominator of which is the sum of
16 (iii) direct premiums written for insurance upon property
17 or risk everywhere, plus (iv) premiums written for
18 reinsurance accepted in respect of property or risk
19 everywhere. For purposes of this paragraph, premiums
20 written for reinsurance accepted in respect of property or
21 risk in this State, whether or not otherwise determinable,
22 may, at the election of the company, be determined on the
23 basis of the proportion which premiums written for
24 reinsurance accepted from companies commercially domiciled
25 in Illinois bears to premiums written for reinsurance
26 accepted from all sources, or, alternatively, in the

1 proportion which the sum of the direct premiums written for
2 insurance upon property or risk in this State by each
3 ceding company from which reinsurance is accepted bears to
4 the sum of the total direct premiums written by each such
5 ceding company for the taxable year. The election made by a
6 company under this paragraph for its first taxable year
7 ending on or after December 31, 2011, shall be binding for
8 that company for that taxable year and for all subsequent
9 taxable years, and may be altered only with the written
10 permission of the Department, which shall not be
11 unreasonably withheld.

12 (c) Financial organizations.

13 (1) In general. For taxable years ending before
14 December 31, 2008, business income of a financial
15 organization shall be apportioned to this State by
16 multiplying such income by a fraction, the numerator of
17 which is its business income from sources within this
18 State, and the denominator of which is its business income
19 from all sources. For the purposes of this subsection, the
20 business income of a financial organization from sources
21 within this State is the sum of the amounts referred to in
22 subparagraphs (A) through (E) following, but excluding the
23 adjusted income of an international banking facility as
24 determined in paragraph (2):

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

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

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

5 (D) Interest charged to customers at places of
6 business maintained within this State for carrying
7 debit balances of margin accounts, without deduction
8 of any costs incurred in carrying such accounts; and

9 (E) Any other gross income resulting from the
10 operation as a financial organization within this
11 State. In computing the amounts referred to in
12 paragraphs (A) through (E) of this subsection, any
13 amount received by a member of an affiliated group
14 (determined under Section 1504(a) of the Internal
15 Revenue Code but without reference to whether any such
16 corporation is an "includible corporation" under
17 Section 1504(b) of the Internal Revenue Code) from
18 another member of such group shall be included only to
19 the extent such amount exceeds expenses of the
20 recipient directly related thereto.

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

23 (A) Adjusted Income. The adjusted income of an
24 international banking facility is its income reduced
25 by the amount of the floor amount.

26 (B) Floor Amount. The floor amount shall be the

1 amount, if any, determined by multiplying the income of
2 the international banking facility by a fraction, not
3 greater than one, which is determined as follows:

4 (i) The numerator shall be:

5 The average aggregate, determined on a
6 quarterly basis, of the financial organization's
7 loans to banks in foreign countries, to foreign
8 domiciled borrowers (except where secured
9 primarily by real estate) and to foreign
10 governments and other foreign official
11 institutions, as reported for its branches,
12 agencies and offices within the state on its
13 "Consolidated Report of Condition", Schedule A,
14 Lines 2.c., 5.b., and 7.a., which was filed with
15 the Federal Deposit Insurance Corporation and
16 other regulatory authorities, for the year 1980,
17 minus

18 The average aggregate, determined on a
19 quarterly basis, of such loans (other than loans of
20 an international banking facility), as reported by
21 the financial institution for its branches,
22 agencies and offices within the state, on the
23 corresponding Schedule and lines of the
24 Consolidated Report of Condition for the current
25 taxable year, provided, however, that in no case
26 shall the amount determined in this clause (the

1 subtrahend) exceed the amount determined in the
2 preceding clause (the minuend); and

3 (ii) the denominator shall be the average
4 aggregate, determined on a quarterly basis, of the
5 international banking facility's loans to banks in
6 foreign countries, to foreign domiciled borrowers
7 (except where secured primarily by real estate)
8 and to foreign governments and other foreign
9 official institutions, which were recorded in its
10 financial accounts for the current taxable year.

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

1 determining the floor amount.

2 (3) For taxable years ending on or after December 31,
3 2008, the business income of a financial organization shall
4 be apportioned to this State by multiplying such income by
5 a fraction, the numerator of which is its gross receipts
6 from sources in this State or otherwise attributable to
7 this State's marketplace and the denominator of which is
8 its gross receipts everywhere during the taxable year.
9 "Gross receipts" for purposes of this subparagraph (3)
10 means gross income, including net taxable gain on
11 disposition of assets, including securities and money
12 market instruments, when derived from transactions and
13 activities in the regular course of the financial
14 organization's trade or business. The following examples
15 are illustrative:

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

25 (ii) Interest income, commissions, fees, gains on
26 disposition, and other receipts from assets in the

1 nature of loans that are secured primarily by real
2 estate or tangible personal property are from sources
3 in this State if the security is located in this State.

4 (iii) Interest income, commissions, fees, gains on
5 disposition, and other receipts from consumer loans
6 that are not secured by real or tangible personal
7 property are from sources in this State if the debtor
8 is a resident of this State.

9 (iv) Interest income, commissions, fees, gains on
10 disposition, and other receipts from commercial loans
11 and installment obligations that are not secured by
12 real or tangible personal property are from sources in
13 this State if the proceeds of the loan are to be
14 applied in this State. If it cannot be determined where
15 the funds are to be applied, the income and receipts
16 are from sources in this State if the office of the
17 borrower from which the loan was negotiated in the
18 regular course of business is located in this State. If
19 the location of this office cannot be determined, the
20 income and receipts shall be excluded from the
21 numerator and denominator of the sales factor.

22 (v) Interest income, fees, gains on disposition,
23 service charges, merchant discount income, and other
24 receipts from credit card receivables are from sources
25 in this State if the card charges are regularly billed
26 to a customer in this State.

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

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

10 (viii) Receipts from investment assets and
11 activities and trading assets and activities are
12 included in the receipts factor as follows:

13 (1) Interest, dividends, net gains (but not
14 less than zero) and other income from investment
15 assets and activities from trading assets and
16 activities shall be included in the receipts
17 factor. Investment assets and activities and
18 trading assets and activities include but are not
19 limited to: investment securities; trading account
20 assets; federal funds; securities purchased and
21 sold under agreements to resell or repurchase;
22 options; futures contracts; forward contracts;
23 notional principal contracts such as swaps;
24 equities; and foreign currency transactions. With
25 respect to the investment and trading assets and
26 activities described in subparagraphs (A) and (B)

1 of this paragraph, the receipts factor shall
2 include the amounts described in such
3 subparagraphs.

4 (A) The receipts factor shall include the
5 amount by which interest from federal funds
6 sold and securities purchased under resale
7 agreements exceeds interest expense on federal
8 funds purchased and securities sold under
9 repurchase agreements.

10 (B) The receipts factor shall include the
11 amount by which interest, dividends, gains and
12 other income from trading assets and
13 activities, including but not limited to
14 assets and activities in the matched book, in
15 the arbitrage book, and foreign currency
16 transactions, exceed amounts paid in lieu of
17 interest, amounts paid in lieu of dividends,
18 and losses from such assets and activities.

19 (2) The numerator of the receipts factor
20 includes interest, dividends, net gains (but not
21 less than zero), and other income from investment
22 assets and activities and from trading assets and
23 activities described in paragraph (1) of this
24 subsection that are attributable to this State.

25 (A) The amount of interest, dividends, net
26 gains (but not less than zero), and other

1 income from investment assets and activities
2 in the investment account to be attributed to
3 this State and included in the numerator is
4 determined by multiplying all such income from
5 such assets and activities by a fraction, the
6 numerator of which is the gross income from
7 such assets and activities which are properly
8 assigned to a fixed place of business of the
9 taxpayer within this State and the denominator
10 of which is the gross income from all such
11 assets and activities.

12 (B) The amount of interest from federal
13 funds sold and purchased and from securities
14 purchased under resale agreements and
15 securities sold under repurchase agreements
16 attributable to this State and included in the
17 numerator is determined by multiplying the
18 amount described in subparagraph (A) of
19 paragraph (1) of this subsection from such
20 funds and such securities by a fraction, the
21 numerator of which is the gross income from
22 such funds and such securities which are
23 properly assigned to a fixed place of business
24 of the taxpayer within this State and the
25 denominator of which is the gross income from
26 all such funds and such securities.

1 (C) The amount of interest, dividends,
2 gains, and other income from trading assets and
3 activities, including but not limited to
4 assets and activities in the matched book, in
5 the arbitrage book and foreign currency
6 transactions (but excluding amounts described
7 in subparagraphs (A) or (B) of this paragraph),
8 attributable to this State and included in the
9 numerator is determined by multiplying the
10 amount described in subparagraph (B) of
11 paragraph (1) of this subsection by a fraction,
12 the numerator of which is the gross income from
13 such trading assets and activities which are
14 properly assigned to a fixed place of business
15 of the taxpayer within this State and the
16 denominator of which is the gross income from
17 all such assets and activities.

18 (D) Properly assigned, for purposes of
19 this paragraph (2) of this subsection, means
20 the investment or trading asset or activity is
21 assigned to the fixed place of business with
22 which it has a preponderance of substantive
23 contacts. An investment or trading asset or
24 activity assigned by the taxpayer to a fixed
25 place of business without the State shall be
26 presumed to have been properly assigned if:

1 (i) the taxpayer has assigned, in the
2 regular course of its business, such asset
3 or activity on its records to a fixed place
4 of business consistent with federal or
5 state regulatory requirements;

6 (ii) such assignment on its records is
7 based upon substantive contacts of the
8 asset or activity to such fixed place of
9 business; and

10 (iii) the taxpayer uses such records
11 reflecting assignment of such assets or
12 activities for the filing of all state and
13 local tax returns for which an assignment
14 of such assets or activities to a fixed
15 place of business is required.

16 (E) The presumption of proper assignment
17 of an investment or trading asset or activity
18 provided in subparagraph (D) of paragraph (2)
19 of this subsection may be rebutted upon a
20 showing by the Department, supported by a
21 preponderance of the evidence, that the
22 preponderance of substantive contacts
23 regarding such asset or activity did not occur
24 at the fixed place of business to which it was
25 assigned on the taxpayer's records. If the
26 fixed place of business that has a

1 preponderance of substantive contacts cannot
2 be determined for an investment or trading
3 asset or activity to which the presumption in
4 subparagraph (D) of paragraph (2) of this
5 subsection does not apply or with respect to
6 which that presumption has been rebutted, that
7 asset or activity is properly assigned to the
8 state in which the taxpayer's commercial
9 domicile is located. For purposes of this
10 subparagraph (E), it shall be presumed,
11 subject to rebuttal, that taxpayer's
12 commercial domicile is in the state of the
13 United States or the District of Columbia to
14 which the greatest number of employees are
15 regularly connected with the management of the
16 investment or trading income or out of which
17 they are working, irrespective of where the
18 services of such employees are performed, as of
19 the last day of the taxable year.

20 (4) (Blank).

21 (5) (Blank).

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

26 (1) Such business income (other than that derived from

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

14 (A) relative railway operating income from total
15 passenger and total freight service, as reported to the
16 Interstate Commerce Commission, in the case of
17 transportation by railroad, and

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

21 (2) Such business income derived from transportation
22 by pipeline shall be apportioned to this State by
23 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 the purposes of this paragraph, a revenue

1 mile is the transportation by pipeline of 1 barrel of oil,
2 1,000 cubic feet of gas, or of any specified quantity of
3 any other substance, the distance of 1 mile for a
4 consideration.

5 (3) For taxable years ending on or after December 31,
6 2008, business income derived from providing
7 transportation services other than airline services shall
8 be apportioned to this State by using a fraction, (a) the
9 numerator of which shall be (i) all receipts from any
10 movement or shipment of people, goods, mail, oil, gas, or
11 any other substance (other than by airline) that both
12 originates and terminates in this State, plus (ii) that
13 portion of the person's gross receipts from movements or
14 shipments of people, goods, mail, oil, gas, or any other
15 substance (other than by airline) that originates in one
16 state or jurisdiction and terminates in another state or
17 jurisdiction, that is determined by the ratio that the
18 miles traveled in this State bears to total miles
19 everywhere and (b) the denominator of which shall be all
20 revenue derived from the movement or shipment of people,
21 goods, mail, oil, gas, or any other substance (other than
22 by airline). Where a taxpayer is engaged in the
23 transportation of both passengers and freight, the
24 fraction above referred to shall first be determined
25 separately for passenger miles and freight miles. Then an
26 average of the passenger miles fraction and the freight

1 miles fraction shall be weighted to reflect the taxpayer's:

2 (A) relative railway operating income from total
3 passenger and total freight service, as reported to the
4 Surface Transportation Board, in the case of
5 transportation by railroad; and

6 (B) relative gross receipts from passenger and
7 freight transportation, in case of transportation
8 other than by railroad.

9 (4) For taxable years ending on or after December 31,
10 2008, business income derived from furnishing airline
11 transportation services shall be apportioned to this State
12 by multiplying such income by a fraction, the numerator of
13 which is the revenue miles of the person in this State, and
14 the denominator of which is the revenue miles of the person
15 everywhere. For purposes of this paragraph, a revenue mile
16 is the transportation of one passenger or one net ton of
17 freight the distance of one mile for a consideration. If a
18 person is engaged in the transportation of both passengers
19 and freight, the fraction above referred to shall be
20 determined by means of an average of the passenger revenue
21 mile fraction and the freight revenue mile fraction,
22 weighted to reflect the person's relative gross receipts
23 from passenger and freight airline transportation.

24 (e) Combined apportionment. Where 2 or more persons are
25 engaged in a unitary business as described in subsection
26 (a) (27) of Section 1501, a part of which is conducted in this

1 State by one or more members of the group, the business income
2 attributable to this State by any such member or members shall
3 be apportioned by means of the combined apportionment method.

4 (f) Alternative allocation. If the allocation and
5 apportionment provisions of subsections (a) through (e) and of
6 subsection (h) do not fairly represent the extent of a person's
7 business activity in this State, the person may petition for,
8 or the Director may, without a petition, permit or require, in
9 respect of all or any part of the person's business activity,
10 if reasonable:

11 (1) Separate accounting;

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

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

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

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

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

24 (1) for tax years ending on or after December 31, 1998
25 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
26 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of

1 the sales factor;

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

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

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

15 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11.)

16 (Text of Section after amendment by P.A. 97-636)

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

18 (a) In general. The business income of a person other than
19 a resident shall be allocated to this State if such person's
20 business income is derived solely from this State. If a person
21 other than a resident derives business income from this State
22 and one or more other states, then, for tax years ending on or
23 before December 30, 1998, and except as otherwise provided by
24 this Section, such person's business income shall be
25 apportioned to this State by multiplying the income by a

1 fraction, the numerator of which is the sum of the property
2 factor (if any), the payroll factor (if any) and 200% of the
3 sales factor (if any), and the denominator of which is 4
4 reduced by the number of factors other than the sales factor
5 which have a denominator of zero and by an additional 2 if the
6 sales factor has a denominator of zero. For tax years ending on
7 or after December 31, 1998, and except as otherwise provided by
8 this Section, persons other than residents who derive business
9 income from this State and one or more other states shall
10 compute their apportionment factor by weighting their
11 property, payroll, and sales factors as provided in subsection
12 (h) of this Section.

13 (1) Property factor.

14 (A) The property factor is a fraction, the numerator of
15 which is the average value of the person's real and
16 tangible personal property owned or rented and used in the
17 trade or business in this State during the taxable year and
18 the denominator of which is the average value of all the
19 person's real and tangible personal property owned or
20 rented and used in the trade or business during the taxable
21 year.

22 (B) Property owned by the person is valued at its
23 original cost. Property rented by the person is valued at 8
24 times the net annual rental rate. Net annual rental rate is
25 the annual rental rate paid by the person less any annual
26 rental rate received by the person from sub-rentals.

1 (C) The average value of property shall be determined
2 by averaging the values at the beginning and ending of the
3 taxable year but the Director may require the averaging of
4 monthly values during the taxable year if reasonably
5 required to reflect properly the average value of the
6 person's property.

7 (2) Payroll factor.

8 (A) The payroll factor is a fraction, the numerator of
9 which is the total amount paid in this State during the
10 taxable year by the person for compensation, and the
11 denominator of which is the total compensation paid
12 everywhere during the taxable year.

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

14 (i) The individual's service is performed entirely
15 within this State;

16 (ii) The individual's service is performed both
17 within and without this State, but the service
18 performed without this State is incidental to the
19 individual's service performed within this State; or

20 (iii) Some of the service is performed within this
21 State and either the base of operations, or if there is
22 no base of operations, the place from which the service
23 is directed or controlled is within this State, or the
24 base of operations or the place from which the service
25 is directed or controlled is not in any state in which
26 some part of the service is performed, but the

1 individual's residence is in this State.

2 (iv) Compensation paid to nonresident professional
3 athletes.

4 (a) General. The Illinois source income of a
5 nonresident individual who is a member of a
6 professional athletic team includes the portion of the
7 individual's total compensation for services performed
8 as a member of a professional athletic team during the
9 taxable year which the number of duty days spent within
10 this State performing services for the team in any
11 manner during the taxable year bears to the total
12 number of duty days spent both within and without this
13 State during the taxable year.

14 (b) Travel days. Travel days that do not involve
15 either a game, practice, team meeting, or other similar
16 team event are not considered duty days spent in this
17 State. However, such travel days are considered in the
18 total duty days spent both within and without this
19 State.

20 (c) Definitions. For purposes of this subpart
21 (iv):

22 (1) The term "professional athletic team"
23 includes, but is not limited to, any professional
24 baseball, basketball, football, soccer, or hockey
25 team.

26 (2) The term "member of a professional

1 athletic team" includes those employees who are
2 active players, players on the disabled list, and
3 any other persons required to travel and who travel
4 with and perform services on behalf of a
5 professional athletic team on a regular basis.
6 This includes, but is not limited to, coaches,
7 managers, and trainers.

8 (3) Except as provided in items (C) and (D) of
9 this subpart (3), the term "duty days" means all
10 days during the taxable year from the beginning of
11 the professional athletic team's official
12 pre-season training period through the last game
13 in which the team competes or is scheduled to
14 compete. Duty days shall be counted for the year in
15 which they occur, including where a team's
16 official pre-season training period through the
17 last game in which the team competes or is
18 scheduled to compete, occurs during more than one
19 tax year.

20 (A) Duty days shall also include days on
21 which a member of a professional athletic team
22 performs service for a team on a date that does
23 not fall within the foregoing period (e.g.,
24 participation in instructional leagues, the
25 "All Star Game", or promotional "caravans").
26 Performing a service for a professional

1 athletic team includes conducting training and
2 rehabilitation activities, when such
3 activities are conducted at team facilities.

4 (B) Also included in duty days are game
5 days, practice days, days spent at team
6 meetings, promotional caravans, preseason
7 training camps, and days served with the team
8 through all post-season games in which the team
9 competes or is scheduled to compete.

10 (C) Duty days for any person who joins a
11 team during the period from the beginning of
12 the professional athletic team's official
13 pre-season training period through the last
14 game in which the team competes, or is
15 scheduled to compete, shall begin on the day
16 that person joins the team. Conversely, duty
17 days for any person who leaves a team during
18 this period shall end on the day that person
19 leaves the team. Where a person switches teams
20 during a taxable year, a separate duty-day
21 calculation shall be made for the period the
22 person was with each team.

23 (D) Days for which a member of a
24 professional athletic team is not compensated
25 and is not performing services for the team in
26 any manner, including days when such member of

1 a professional athletic team has been
2 suspended without pay and prohibited from
3 performing any services for the team, shall not
4 be treated as duty days.

5 (E) Days for which a member of a
6 professional athletic team is on the disabled
7 list and does not conduct rehabilitation
8 activities at facilities of the team, and is
9 not otherwise performing services for the team
10 in Illinois, shall not be considered duty days
11 spent in this State. All days on the disabled
12 list, however, are considered to be included in
13 total duty days spent both within and without
14 this State.

15 (4) The term "total compensation for services
16 performed as a member of a professional athletic
17 team" means the total compensation received during
18 the taxable year for services performed:

19 (A) from the beginning of the official
20 pre-season training period through the last
21 game in which the team competes or is scheduled
22 to compete during that taxable year; and

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

1 This compensation shall include, but is not
2 limited to, salaries, wages, bonuses as described
3 in this subpart, and any other type of compensation
4 paid during the taxable year to a member of a
5 professional athletic team for services performed
6 in that year. This compensation does not include
7 strike benefits, severance pay, termination pay,
8 contract or option year buy-out payments,
9 expansion or relocation payments, or any other
10 payments not related to services performed for the
11 team.

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

1 salary and any other compensation, and the signing
2 bonus is nonrefundable.

3 (3) Sales factor.

4 (A) The sales factor is a fraction, the numerator of
5 which is the total sales of the person in this State during
6 the taxable year, and the denominator of which is the total
7 sales of the person everywhere during the taxable year.

8 (B) Sales of tangible personal property are in this
9 State if:

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

14 (ii) The property is shipped from an office, store,
15 warehouse, factory or other place of storage in this
16 State and either the purchaser is the United States
17 government or the person is not taxable in the state of
18 the purchaser; provided, however, that premises owned
19 or leased by a person who has independently contracted
20 with the seller for the printing of newspapers,
21 periodicals or books shall not be deemed to be an
22 office, store, warehouse, factory or other place of
23 storage for purposes of this Section. Sales of tangible
24 personal property are not in this State if the seller
25 and purchaser would be members of the same unitary
26 business group but for the fact that either the seller

1 or purchaser is a person with 80% or more of total
2 business activity outside of the United States and the
3 property is purchased for resale.

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

6 (i) Gross receipts from the licensing, sale, or
7 other disposition of a patent, copyright, trademark,
8 or similar item of intangible personal property, other
9 than gross receipts governed by paragraph (B-7) of this
10 item (3), are in this State to the extent the item is
11 utilized in this State during the year the gross
12 receipts are included in gross income.

13 (ii) Place of utilization.

14 (I) A patent is utilized in a state to the
15 extent that it is employed in production,
16 fabrication, manufacturing, or other processing in
17 the state or to the extent that a patented product
18 is produced in the state. If a patent is utilized
19 in more than one state, the extent to which it is
20 utilized in any one state shall be a fraction equal
21 to the gross receipts of the licensee or purchaser
22 from sales or leases of items produced,
23 fabricated, manufactured, or processed within that
24 state using the patent and of patented items
25 produced within that state, divided by the total of
26 such gross receipts for all states in which the

1 patent is utilized.

2 (II) A copyright is utilized in a state to the
3 extent that printing or other publication
4 originates in the state. If a copyright is utilized
5 in more than one state, the extent to which it is
6 utilized in any one state shall be a fraction equal
7 to the gross receipts from sales or licenses of
8 materials printed or published in that state
9 divided by the total of such gross receipts for all
10 states in which the copyright is utilized.

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

15 (iii) If the state of utilization of an item of
16 property governed by this paragraph (B-1) cannot be
17 determined from the taxpayer's books and records or
18 from the books and records of any person related to the
19 taxpayer within the meaning of Section 267(b) of the
20 Internal Revenue Code, 26 U.S.C. 267, the gross
21 receipts attributable to that item shall be excluded
22 from both the numerator and the denominator of the
23 sales factor.

24 (B-2) Gross receipts from the license, sale, or other
25 disposition of patents, copyrights, trademarks, and
26 similar items of intangible personal property, other than

1 gross receipts governed by paragraph (B-7) of this item
2 (3), may be included in the numerator or denominator of the
3 sales factor only if gross receipts from licenses, sales,
4 or other disposition of such items comprise more than 50%
5 of the taxpayer's total gross receipts included in gross
6 income during the tax year and during each of the 2
7 immediately preceding tax years; provided that, when a
8 taxpayer is a member of a unitary business group, such
9 determination shall be made on the basis of the gross
10 receipts of the entire unitary business group.

11 (B-5) For taxable years ending on or after December 31,
12 2008, except as provided in subsections (ii) through (vii),
13 receipts from the sale of telecommunications service or
14 mobile telecommunications service are in this State if the
15 customer's service address is in this State.

16 (i) For purposes of this subparagraph (B-5), the
17 following terms have the following meanings:

18 "Ancillary services" means services that are
19 associated with or incidental to the provision of
20 "telecommunications services", including but not
21 limited to "detailed telecommunications billing",
22 "directory assistance", "vertical service", and "voice
23 mail services".

24 "Air-to-Ground Radiotelephone service" means a
25 radio service, as that term is defined in 47 CFR 22.99,
26 in which common carriers are authorized to offer and

1 provide radio telecommunications service for hire to
2 subscribers in aircraft.

3 "Call-by-call Basis" means any method of charging
4 for telecommunications services where the price is
5 measured by individual calls.

6 "Communications Channel" means a physical or
7 virtual path of communications over which signals are
8 transmitted between or among customer channel
9 termination points.

10 "Conference bridging service" means an "ancillary
11 service" that links two or more participants of an
12 audio or video conference call and may include the
13 provision of a telephone number. "Conference bridging
14 service" does not include the "telecommunications
15 services" used to reach the conference bridge.

16 "Customer Channel Termination Point" means the
17 location where the customer either inputs or receives
18 the communications.

19 "Detailed telecommunications billing service"
20 means an "ancillary service" of separately stating
21 information pertaining to individual calls on a
22 customer's billing statement.

23 "Directory assistance" means an "ancillary
24 service" of providing telephone number information,
25 and/or address information.

26 "Home service provider" means the facilities based

1 carrier or reseller with which the customer contracts
2 for the provision of mobile telecommunications
3 services.

4 "Mobile telecommunications service" means
5 commercial mobile radio service, as defined in Section
6 20.3 of Title 47 of the Code of Federal Regulations as
7 in effect on June 1, 1999.

8 "Place of primary use" means the street address
9 representative of where the customer's use of the
10 telecommunications service primarily occurs, which
11 must be the residential street address or the primary
12 business street address of the customer. In the case of
13 mobile telecommunications services, "place of primary
14 use" must be within the licensed service area of the
15 home service provider.

16 "Post-paid telecommunication service" means the
17 telecommunications service obtained by making a
18 payment on a call-by-call basis either through the use
19 of a credit card or payment mechanism such as a bank
20 card, travel card, credit card, or debit card, or by
21 charge made to a telephone number which is not
22 associated with the origination or termination of the
23 telecommunications service. A post-paid calling
24 service includes telecommunications service, except a
25 prepaid wireless calling service, that would be a
26 prepaid calling service except it is not exclusively a

1 telecommunication service.

2 "Prepaid telecommunication service" means the
3 right to access exclusively telecommunications
4 services, which must be paid for in advance and which
5 enables the origination of calls using an access number
6 or authorization code, whether manually or
7 electronically dialed, and that is sold in
8 predetermined units or dollars of which the number
9 declines with use in a known amount.

10 "Prepaid Mobile telecommunication service" means a
11 telecommunications service that provides the right to
12 utilize mobile wireless service as well as other
13 non-telecommunication services, including but not
14 limited to ancillary services, which must be paid for
15 in advance that is sold in predetermined units or
16 dollars of which the number declines with use in a
17 known amount.

18 "Private communication service" means a
19 telecommunication service that entitles the customer
20 to exclusive or priority use of a communications
21 channel or group of channels between or among
22 termination points, regardless of the manner in which
23 such channel or channels are connected, and includes
24 switching capacity, extension lines, stations, and any
25 other associated services that are provided in
26 connection with the use of such channel or channels.

1 "Service address" means:

2 (a) The location of the telecommunications
3 equipment to which a customer's call is charged and
4 from which the call originates or terminates,
5 regardless of where the call is billed or paid;

6 (b) If the location in line (a) is not known,
7 service address means the origination point of the
8 signal of the telecommunications services first
9 identified by either the seller's
10 telecommunications system or in information
11 received by the seller from its service provider
12 where the system used to transport such signals is
13 not that of the seller; and

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

17 "Telecommunications service" means the electronic
18 transmission, conveyance, or routing of voice, data,
19 audio, video, or any other information or signals to a
20 point, or between or among points. The term
21 "telecommunications service" includes such
22 transmission, conveyance, or routing in which computer
23 processing applications are used to act on the form,
24 code or protocol of the content for purposes of
25 transmission, conveyance or routing without regard to
26 whether such service is referred to as voice over

1 Internet protocol services or is classified by the
2 Federal Communications Commission as enhanced or value
3 added. "Telecommunications service" does not include:

4 (a) Data processing and information services
5 that allow data to be generated, acquired, stored,
6 processed, or retrieved and delivered by an
7 electronic transmission to a purchaser when such
8 purchaser's primary purpose for the underlying
9 transaction is the processed data or information;

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

12 (c) Tangible personal property;

13 (d) Advertising, including but not limited to
14 directory advertising.

15 (e) Billing and collection services provided
16 to third parties;

17 (f) Internet access service;

18 (g) Radio and television audio and video
19 programming services, regardless of the medium,
20 including the furnishing of transmission,
21 conveyance and routing of such services by the
22 programming service provider. Radio and television
23 audio and video programming services shall include
24 but not be limited to cable service as defined in
25 47 USC 522(6) and audio and video programming
26 services delivered by commercial mobile radio

1 service providers, as defined in 47 CFR 20.3;

2 (h) "Ancillary services"; or

3 (i) Digital products "delivered
4 electronically", including but not limited to
5 software, music, video, reading materials or ring
6 tones.

7 "Vertical service" means an "ancillary service"
8 that is offered in connection with one or more
9 "telecommunications services", which offers advanced
10 calling features that allow customers to identify
11 callers and to manage multiple calls and call
12 connections, including "conference bridging services".

13 "Voice mail service" means an "ancillary service"
14 that enables the customer to store, send or receive
15 recorded messages. "Voice mail service" does not
16 include any "vertical services" that the customer may
17 be required to have in order to utilize the "voice mail
18 service".

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

22 (a) The call both originates and terminates in
23 this State.

24 (b) The call either originates or terminates
25 in this State and the service address is located in
26 this State.

1 (iii) Receipts from the sale of postpaid
2 telecommunications service at retail are in this State
3 if the origination point of the telecommunication
4 signal, as first identified by the service provider's
5 telecommunication system or as identified by
6 information received by the seller from its service
7 provider if the system used to transport
8 telecommunication signals is not the seller's, is
9 located in this State.

10 (iv) Receipts from the sale of prepaid
11 telecommunications service or prepaid mobile
12 telecommunications service at retail are in this State
13 if the purchaser obtains the prepaid card or similar
14 means of conveyance at a location in this State.
15 Receipts from recharging a prepaid telecommunications
16 service or mobile telecommunications service is in
17 this State if the purchaser's billing information
18 indicates a location in this State.

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

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

23 (b) 100% of receipts from charges for the total
24 channel mileage between each channel termination
25 point in this State.

26 (c) 50% of the total receipts from charges for

1 service segments when those segments are between 2
2 customer channel termination points, 1 of which is
3 located in this State and the other is located
4 outside of this State, which segments are
5 separately charged.

6 (d) The receipts from charges for service
7 segments with a channel termination point located
8 in this State and in two or more other states, and
9 which segments are not separately billed, are in
10 this State based on a percentage determined by
11 dividing the number of customer channel
12 termination points in this State by the total
13 number of customer channel termination points.

14 (vi) Receipts from charges for ancillary services
15 for telecommunications service sold to customers at
16 retail are in this State if the customer's primary
17 place of use of telecommunications services associated
18 with those ancillary services is in this State. If the
19 seller of those ancillary services cannot determine
20 where the associated telecommunications are located,
21 then the ancillary services shall be based on the
22 location of the purchaser.

23 (vii) Receipts to access a carrier's network or
24 from the sale of telecommunication services or
25 ancillary services for resale are in this State as
26 follows:

1 (a) 100% of the receipts from access fees
2 attributable to intrastate telecommunications
3 service that both originates and terminates in
4 this State.

5 (b) 50% of the receipts from access fees
6 attributable to interstate telecommunications
7 service if the interstate call either originates
8 or terminates in this State.

9 (c) 100% of the receipts from interstate end
10 user access line charges, if the customer's
11 service address is in this State. As used in this
12 subdivision, "interstate end user access line
13 charges" includes, but is not limited to, the
14 surcharge approved by the federal communications
15 commission and levied pursuant to 47 CFR 69.

16 (d) Gross receipts from sales of
17 telecommunication services or from ancillary
18 services for telecommunications services sold to
19 other telecommunication service providers for
20 resale shall be sourced to this State using the
21 apportionment concepts used for non-resale
22 receipts of telecommunications services if the
23 information is readily available to make that
24 determination. If the information is not readily
25 available, then the taxpayer may use any other
26 reasonable and consistent method.

1 (B-7) For taxable years ending on or after December 31,
2 2008, receipts from the sale of broadcasting services are
3 in this State if the broadcasting services are received in
4 this State. For purposes of this paragraph (B-7), the
5 following terms have the following meanings:

6 "Advertising revenue" means consideration received
7 by the taxpayer in exchange for broadcasting services
8 or allowing the broadcasting of commercials or
9 announcements in connection with the broadcasting of
10 film or radio programming, from sponsorships of the
11 programming, or from product placements in the
12 programming.

13 "Audience factor" means the ratio that the
14 audience or subscribers located in this State of a
15 station, a network, or a cable system bears to the
16 total audience or total subscribers for that station,
17 network, or cable system. The audience factor for film
18 or radio programming shall be determined by reference
19 to the books and records of the taxpayer or by
20 reference to published rating statistics provided the
21 method used by the taxpayer is consistently used from
22 year to year for this purpose and fairly represents the
23 taxpayer's activity in this State.

24 "Broadcast" or "broadcasting" or "broadcasting
25 services" means the transmission or provision of film
26 or radio programming, whether through the public

1 airwaves, by cable, by direct or indirect satellite
2 transmission, or by any other means of communication,
3 either through a station, a network, or a cable system.

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

15 "Radio" or "radio programming" means the broadcast
16 on radio of any and all performances, events, or
17 productions, including but not limited to news,
18 sporting events, plays, stories, or other literary,
19 commercial, educational, or artistic works, either
20 live or through the use of an audio tape, disc, or any
21 other format or medium. Each episode in a series of
22 radio programming produced for radio broadcast shall
23 constitute a separate "radio programming"
24 notwithstanding that the series relates to the same
25 principal subject and is produced during one or more
26 tax periods.

1 (i) In the case of advertising revenue from
2 broadcasting, the customer is the advertiser and
3 the service is received in this State if the
4 commercial domicile of the advertiser is in this
5 State.

6 (ii) In the case where film or radio
7 programming is broadcast by a station, a network,
8 or a cable system for a fee or other remuneration
9 received from the recipient of the broadcast, the
10 portion of the service that is received in this
11 State is measured by the portion of the recipients
12 of the broadcast located in this State.
13 Accordingly, the fee or other remuneration for
14 such service that is included in the Illinois
15 numerator of the sales factor is the total of those
16 fees or other remuneration received from
17 recipients in Illinois. For purposes of this
18 paragraph, a taxpayer may determine the location
19 of the recipients of its broadcast using the
20 address of the recipient shown in its contracts
21 with the recipient or using the billing address of
22 the recipient in the taxpayer's records.

23 (iii) 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 from the person providing the programming, the

1 portion of the broadcast service that is received
2 by such station, network, or cable system in this
3 State is measured by the portion of recipients of
4 the broadcast located in this State. Accordingly,
5 the amount of revenue related to such an
6 arrangement that is included in the Illinois
7 numerator of the sales factor is the total fee or
8 other total remuneration from the person providing
9 the programming related to that broadcast
10 multiplied by the Illinois audience factor for
11 that broadcast.

12 (iv) In the case where film or radio
13 programming is provided by a taxpayer that is a
14 network or station to a customer for broadcast in
15 exchange for a fee or other remuneration from that
16 customer the broadcasting service is received at
17 the location of the office of the customer from
18 which the services were ordered in the regular
19 course of the customer's trade or business.
20 Accordingly, in such a case the revenue derived by
21 the taxpayer that is included in the taxpayer's
22 Illinois numerator of the sales factor is the
23 revenue from such customers who receive the
24 broadcasting service in Illinois.

25 (v) In the case where film or radio programming
26 is provided by a taxpayer that is not a network or

1 station to another person for broadcasting in
2 exchange for a fee or other remuneration from that
3 person, the broadcasting service is received at
4 the location of the office of the customer from
5 which the services were ordered in the regular
6 course of the customer's trade or business.
7 Accordingly, in such a case the revenue derived by
8 the taxpayer that is included in the taxpayer's
9 Illinois numerator of the sales factor is the
10 revenue from such customers who receive the
11 broadcasting service in Illinois.

12 (B-8) Gross receipts from winnings under the Illinois
13 Lottery Law, from the assignment of a prize under Section
14 13.1 the Illinois Lottery Law, from winnings from
15 pari-mutuel wagering conducted at a wagering facility
16 licensed under the Illinois Horse Racing Act of 1975 or
17 from winnings from gambling games conducted on a riverboat
18 licensed under the Riverboat Gambling Act are in this
19 State. This paragraph (B-8) applies only to taxable years
20 ending on or after December 31, 2012.

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

24 (i) The income-producing activity is performed in
25 this State; or

26 (ii) The income-producing activity is performed

1 both within and without this State and a greater
2 proportion of the income-producing activity is
3 performed within this State than without this State,
4 based on performance costs.

5 (C-5) For taxable years ending on or after December 31,
6 2008, sales, other than sales governed by paragraphs (B),
7 (B-1), (B-2), (B-5), ~~and~~ (B-7), and (B-8) are in this State
8 if any of the following criteria are met:

9 (i) Sales from the sale or lease of real property
10 are in this State if the property is located in this
11 State.

12 (ii) Sales from the lease or rental of tangible
13 personal property are in this State if the property is
14 located in this State during the rental period. Sales
15 from the lease or rental of tangible personal property
16 that is characteristically moving property, including,
17 but not limited to, motor vehicles, rolling stock,
18 aircraft, vessels, or mobile equipment are in this
19 State to the extent that the property is used in this
20 State.

21 (iii) In the case of interest, net gains (but not
22 less than zero) and other items of income from
23 intangible personal property, the sale is in this State
24 if:

25 (a) in the case of a taxpayer who is a dealer
26 in the item of intangible personal property within

1 the meaning of Section 475 of the Internal Revenue
2 Code, the income or gain is received from a
3 customer in this State. For purposes of this
4 subparagraph, a customer is in this State if the
5 customer is an individual, trust or estate who is a
6 resident of this State and, for all other
7 customers, if the customer's commercial domicile
8 is in this State. Unless the dealer has actual
9 knowledge of the residence or commercial domicile
10 of a customer during a taxable year, the customer
11 shall be deemed to be a customer in this State if
12 the billing address of the customer, as shown in
13 the records of the dealer, is in this State; or

14 (b) in all other cases, if the
15 income-producing activity of the taxpayer is
16 performed in this State or, if the
17 income-producing activity of the taxpayer is
18 performed both within and without this State, if a
19 greater proportion of the income-producing
20 activity of the taxpayer is performed within this
21 State than in any other state, based on performance
22 costs.

23 (iv) Sales of services are in this State if the
24 services are received in this State. For the purposes
25 of this section, gross receipts from the performance of
26 services provided to a corporation, partnership, or

1 trust may only be attributed to a state where that
2 corporation, partnership, or trust has a fixed place of
3 business. If the state where the services are received
4 is not readily determinable or is a state where the
5 corporation, partnership, or trust receiving the
6 service does not have a fixed place of business, the
7 services shall be deemed to be received at the location
8 of the office of the customer from which the services
9 were ordered in the regular course of the customer's
10 trade or business. If the ordering office cannot be
11 determined, the services shall be deemed to be received
12 at the office of the customer to which the services are
13 billed. If the taxpayer is not taxable in the state in
14 which the services are received, the sale must be
15 excluded from both the numerator and the denominator of
16 the sales factor. The Department shall adopt rules
17 prescribing where specific types of service are
18 received, including, but not limited to, publishing,
19 and utility service.

20 (D) For taxable years ending on or after December 31,
21 1995, the following items of income shall not be included
22 in the numerator or denominator of the sales factor:
23 dividends; amounts included under Section 78 of the
24 Internal Revenue Code; and Subpart F income as defined in
25 Section 952 of the Internal Revenue Code. No inference
26 shall be drawn from the enactment of this paragraph (D) in

1 construing this Section for taxable years ending before
2 December 31, 1995.

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

20 (b) Insurance companies.

21 (1) In general. Except as otherwise provided by
22 paragraph (2), business income of an insurance company for
23 a taxable year shall be apportioned to this State by
24 multiplying such income by a fraction, the numerator of
25 which is the direct premiums written for insurance upon
26 property or risk in this State, and the denominator of

1 which is the direct premiums written for insurance upon
2 property or risk everywhere. For purposes of this
3 subsection, the term "direct premiums written" means the
4 total amount of direct premiums written, assessments and
5 annuity considerations as reported for the taxable year on
6 the annual statement filed by the company with the Illinois
7 Director of Insurance in the form approved by the National
8 Convention of Insurance Commissioners or such other form as
9 may be prescribed in lieu thereof.

10 (2) Reinsurance. If the principal source of premiums
11 written by an insurance company consists of premiums for
12 reinsurance accepted by it, the business income of such
13 company shall be apportioned to this State by multiplying
14 such income by a fraction, the numerator of which is the
15 sum of (i) direct premiums written for insurance upon
16 property or risk in this State, plus (ii) premiums written
17 for reinsurance accepted in respect of property or risk in
18 this State, and the denominator of which is the sum of
19 (iii) direct premiums written for insurance upon property
20 or risk everywhere, plus (iv) premiums written for
21 reinsurance accepted in respect of property or risk
22 everywhere. For purposes of this paragraph, premiums
23 written for reinsurance accepted in respect of property or
24 risk in this State, whether or not otherwise determinable,
25 may, at the election of the company, be determined on the
26 basis of the proportion which premiums written for

1 reinsurance accepted from companies commercially domiciled
2 in Illinois bears to premiums written for reinsurance
3 accepted from all sources, or, alternatively, in the
4 proportion which the sum of the direct premiums written for
5 insurance upon property or risk in this State by each
6 ceding company from which reinsurance is accepted bears to
7 the sum of the total direct premiums written by each such
8 ceding company for the taxable year. The election made by a
9 company under this paragraph for its first taxable year
10 ending on or after December 31, 2011, shall be binding for
11 that company for that taxable year and for all subsequent
12 taxable years, and may be altered only with the written
13 permission of the Department, which shall not be
14 unreasonably withheld.

15 (c) Financial organizations.

16 (1) In general. For taxable years ending before
17 December 31, 2008, business income of a financial
18 organization shall be apportioned to this State by
19 multiplying such income by a fraction, the numerator of
20 which is its business income from sources within this
21 State, and the denominator of which is its business income
22 from all sources. For the purposes of this subsection, the
23 business income of a financial organization from sources
24 within this State is the sum of the amounts referred to in
25 subparagraphs (A) through (E) following, but excluding the
26 adjusted income of an international banking facility as

1 determined in paragraph (2):

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

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

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

8 (D) Interest charged to customers at places of
9 business maintained within this State for carrying
10 debit balances of margin accounts, without deduction
11 of any costs incurred in carrying such accounts; and

12 (E) Any other gross income resulting from the
13 operation as a financial organization within this
14 State. In computing the amounts referred to in
15 paragraphs (A) through (E) of this subsection, any
16 amount received by a member of an affiliated group
17 (determined under Section 1504(a) of the Internal
18 Revenue Code but without reference to whether any such
19 corporation is an "includible corporation" under
20 Section 1504(b) of the Internal Revenue Code) from
21 another member of such group shall be included only to
22 the extent such amount exceeds expenses of the
23 recipient directly related thereto.

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

26 (A) Adjusted Income. The adjusted income of an

1 international banking facility is its income reduced
2 by the amount of the floor amount.

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

7 (i) The numerator shall be:

8 The average aggregate, determined on a
9 quarterly basis, of the financial organization's
10 loans to banks in foreign countries, to foreign
11 domiciled borrowers (except where secured
12 primarily by real estate) and to foreign
13 governments and other foreign official
14 institutions, as reported for its branches,
15 agencies and offices within the state on its
16 "Consolidated Report of Condition", Schedule A,
17 Lines 2.c., 5.b., and 7.a., which was filed with
18 the Federal Deposit Insurance Corporation and
19 other regulatory authorities, for the year 1980,
20 minus

21 The average aggregate, determined on a
22 quarterly basis, of such loans (other than loans of
23 an international banking facility), as reported by
24 the financial institution for its branches,
25 agencies and offices within the state, on the
26 corresponding Schedule and lines of the

1 Consolidated Report of Condition for the current
2 taxable year, provided, however, that in no case
3 shall the amount determined in this clause (the
4 subtrahend) exceed the amount determined in the
5 preceding clause (the minuend); and

6 (ii) the denominator shall be the average
7 aggregate, determined on a quarterly basis, of the
8 international banking facility's loans to banks in
9 foreign countries, to foreign domiciled borrowers
10 (except where secured primarily by real estate)
11 and to foreign governments and other foreign
12 official institutions, which were recorded in its
13 financial accounts for the current taxable year.

14 (C) Change to Consolidated Report of Condition and
15 in Qualification. In the event the Consolidated Report
16 of Condition which is filed with the Federal Deposit
17 Insurance Corporation and other regulatory authorities
18 is altered so that the information required for
19 determining the floor amount is not found on Schedule
20 A, lines 2.c., 5.b. and 7.a., the financial institution
21 shall notify the Department and the Department may, by
22 regulations or otherwise, prescribe or authorize the
23 use of an alternative source for such information. The
24 financial institution shall also notify the Department
25 should its international banking facility fail to
26 qualify as such, in whole or in part, or should there

1 be any amendment or change to the Consolidated Report
2 of Condition, as originally filed, to the extent such
3 amendment or change alters the information used in
4 determining the floor amount.

5 (3) For taxable years ending on or after December 31,
6 2008, the business income of a financial organization shall
7 be apportioned to this State by multiplying such income by
8 a fraction, the numerator of which is its gross receipts
9 from sources in this State or otherwise attributable to
10 this State's marketplace and the denominator of which is
11 its gross receipts everywhere during the taxable year.
12 "Gross receipts" for purposes of this subparagraph (3)
13 means gross income, including net taxable gain on
14 disposition of assets, including securities and money
15 market instruments, when derived from transactions and
16 activities in the regular course of the financial
17 organization's trade or business. The following examples
18 are illustrative:

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

1 that the property is used in this State.

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

7 (iii) Interest income, commissions, fees, gains on
8 disposition, and other receipts from consumer loans
9 that are not secured by real or tangible personal
10 property are from sources in this State if the debtor
11 is a resident of this State.

12 (iv) Interest income, commissions, fees, gains on
13 disposition, and other receipts from commercial loans
14 and installment obligations that are not secured by
15 real or tangible personal property are from sources in
16 this State if the proceeds of the loan are to be
17 applied in this State. If it cannot be determined where
18 the funds are to be applied, the income and receipts
19 are from sources in this State if the office of the
20 borrower from which the loan was negotiated in the
21 regular course of business is located in this State. If
22 the location of this office cannot be determined, the
23 income and receipts shall be excluded from the
24 numerator and denominator of the sales factor.

25 (v) Interest income, fees, gains on disposition,
26 service charges, merchant discount income, and other

1 receipts from credit card receivables are from sources
2 in this State if the card charges are regularly billed
3 to a customer in this State.

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

9 (vii) Receipts from the issuance of travelers
10 checks and money orders are from sources in this State
11 if the checks and money orders are issued from a
12 location within this State.

13 (viii) Receipts from investment assets and
14 activities and trading assets and activities are
15 included in the receipts factor as follows:

16 (1) Interest, dividends, net gains (but not
17 less than zero) and other income from investment
18 assets and activities from trading assets and
19 activities shall be included in the receipts
20 factor. Investment assets and activities and
21 trading assets and activities include but are not
22 limited to: investment securities; trading account
23 assets; federal funds; securities purchased and
24 sold under agreements to resell or repurchase;
25 options; futures contracts; forward contracts;
26 notional principal contracts such as swaps;

1 equities; and foreign currency transactions. With
2 respect to the investment and trading assets and
3 activities described in subparagraphs (A) and (B)
4 of this paragraph, the receipts factor shall
5 include the amounts described in such
6 subparagraphs.

7 (A) The receipts factor shall include the
8 amount by which interest from federal funds
9 sold and securities purchased under resale
10 agreements exceeds interest expense on federal
11 funds purchased and securities sold under
12 repurchase agreements.

13 (B) The receipts factor shall include the
14 amount by which interest, dividends, gains and
15 other income from trading assets and
16 activities, including but not limited to
17 assets and activities in the matched book, in
18 the arbitrage book, and foreign currency
19 transactions, exceed amounts paid in lieu of
20 interest, amounts paid in lieu of dividends,
21 and losses from such assets and activities.

22 (2) The numerator of the receipts factor
23 includes interest, dividends, net gains (but not
24 less than zero), and other income from investment
25 assets and activities and from trading assets and
26 activities described in paragraph (1) of this

1 subsection that are attributable to this State.

2 (A) The amount of interest, dividends, net
3 gains (but not less than zero), and other
4 income from investment assets and activities
5 in the investment account to be attributed to
6 this State and included in the numerator is
7 determined by multiplying all such income from
8 such assets and activities by a fraction, the
9 numerator of which is the gross income from
10 such assets and activities which are properly
11 assigned to a fixed place of business of the
12 taxpayer within this State and the denominator
13 of which is the gross income from all such
14 assets and activities.

15 (B) The amount of interest from federal
16 funds sold and purchased and from securities
17 purchased under resale agreements and
18 securities sold under repurchase agreements
19 attributable to this State and included in the
20 numerator is determined by multiplying the
21 amount described in subparagraph (A) of
22 paragraph (1) of this subsection from such
23 funds and such securities by a fraction, the
24 numerator of which is the gross income from
25 such funds and such securities which are
26 properly assigned to a fixed place of business

1 of the taxpayer within this State and the
2 denominator of which is the gross income from
3 all such funds and such securities.

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

21 (D) Properly assigned, for purposes of
22 this paragraph (2) of this subsection, means
23 the investment or trading asset or activity is
24 assigned to the fixed place of business with
25 which it has a preponderance of substantive
26 contacts. An investment or trading asset or

1 activity assigned by the taxpayer to a fixed
2 place of business without the State shall be
3 presumed to have been properly assigned if:

4 (i) the taxpayer has assigned, in the
5 regular course of its business, such asset
6 or activity on its records to a fixed place
7 of business consistent with federal or
8 state regulatory requirements;

9 (ii) such assignment on its records is
10 based upon substantive contacts of the
11 asset or activity to such fixed place of
12 business; and

13 (iii) the taxpayer uses such records
14 reflecting assignment of such assets or
15 activities for the filing of all state and
16 local tax returns for which an assignment
17 of such assets or activities to a fixed
18 place of business is required.

19 (E) The presumption of proper assignment
20 of an investment or trading asset or activity
21 provided in subparagraph (D) of paragraph (2)
22 of this subsection may be rebutted upon a
23 showing by the Department, supported by a
24 preponderance of the evidence, that the
25 preponderance of substantive contacts
26 regarding such asset or activity did not occur

1 at the fixed place of business to which it was
2 assigned on the taxpayer's records. If the
3 fixed place of business that has a
4 preponderance of substantive contacts cannot
5 be determined for an investment or trading
6 asset or activity to which the presumption in
7 subparagraph (D) of paragraph (2) of this
8 subsection does not apply or with respect to
9 which that presumption has been rebutted, that
10 asset or activity is properly assigned to the
11 state in which the taxpayer's commercial
12 domicile is located. For purposes of this
13 subparagraph (E), it shall be presumed,
14 subject to rebuttal, that taxpayer's
15 commercial domicile is in the state of the
16 United States or the District of Columbia to
17 which the greatest number of employees are
18 regularly connected with the management of the
19 investment or trading income or out of which
20 they are working, irrespective of where the
21 services of such employees are performed, as of
22 the last day of the taxable year.

23 (4) (Blank).

24 (5) (Blank).

25 (c-1) Federally regulated exchanges. For taxable years
26 ending on or after December 31, 2012, business income of a

1 federally regulated exchange shall, at the option of the
2 federally regulated exchange, be apportioned to this State by
3 multiplying such income by a fraction, the numerator of which
4 is its business income from sources within this State, and the
5 denominator of which is its business income from all sources.
6 For purposes of this subsection, the business income within
7 this State of a federally regulated exchange is the sum of the
8 following:

9 (1) Receipts attributable to transactions executed on
10 a physical trading floor if that physical trading floor is
11 located in this State.

12 (2) Receipts attributable to all other matching,
13 execution, or clearing transactions, including without
14 limitation receipts from the provision of matching,
15 execution, or clearing services to another entity,
16 multiplied by (i) for taxable years ending on or after
17 December 31, 2012 but before December 31, 2013, 63.77%; and
18 (ii) for taxable years ending on or after December 31,
19 2013, 27.54%.

20 (3) All other receipts not governed by subparagraphs
21 (1) or (2) of this subsection (c-1), to the extent the
22 receipts would be characterized as "sales in this State"
23 under item (3) of subsection (a) of this Section.

24 "Federally regulated exchange" means (i) a "registered
25 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),
26 or (C), (ii) an "exchange" or "clearing agency" within the

1 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such
2 entities regulated under any successor regulatory structure to
3 the foregoing, and (iv) all taxpayers who are members of the
4 same unitary business group as a federally regulated exchange,
5 determined without regard to the prohibition in Section
6 1501(a) (27) of this Act against including in a unitary business
7 group taxpayers who are ordinarily required to apportion
8 business income under different subsections of this Section;
9 provided that this subparagraph (iv) shall apply only if 50% or
10 more of the business receipts of the unitary business group
11 determined by application of this subparagraph (iv) for the
12 taxable year are attributable to the matching, execution, or
13 clearing of transactions conducted by an entity described in
14 subparagraph (i), (ii), or (iii) of this paragraph.

15 In no event shall the Illinois apportionment percentage
16 computed in accordance with this subsection (c-1) for any
17 taxpayer for any tax year be less than the Illinois
18 apportionment percentage computed under this subsection (c-1)
19 for that taxpayer for the first full tax year ending on or
20 after December 31, 2013 for which this subsection (c-1) applied
21 to the taxpayer.

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

26 (1) Such business income (other than that derived from

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

14 (A) relative railway operating income from total
15 passenger and total freight service, as reported to the
16 Interstate Commerce Commission, in the case of
17 transportation by railroad, and

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

21 (2) Such business income derived from transportation
22 by pipeline shall be apportioned to this State by
23 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 the purposes of this paragraph, a revenue

1 mile is the transportation by pipeline of 1 barrel of oil,
2 1,000 cubic feet of gas, or of any specified quantity of
3 any other substance, the distance of 1 mile for a
4 consideration.

5 (3) For taxable years ending on or after December 31,
6 2008, business income derived from providing
7 transportation services other than airline services shall
8 be apportioned to this State by using a fraction, (a) the
9 numerator of which shall be (i) all receipts from any
10 movement or shipment of people, goods, mail, oil, gas, or
11 any other substance (other than by airline) that both
12 originates and terminates in this State, plus (ii) that
13 portion of the person's gross receipts from movements or
14 shipments of people, goods, mail, oil, gas, or any other
15 substance (other than by airline) that originates in one
16 state or jurisdiction and terminates in another state or
17 jurisdiction, that is determined by the ratio that the
18 miles traveled in this State bears to total miles
19 everywhere and (b) the denominator of which shall be all
20 revenue derived from the movement or shipment of people,
21 goods, mail, oil, gas, or any other substance (other than
22 by airline). Where a taxpayer is engaged in the
23 transportation of both passengers and freight, the
24 fraction above referred to shall first be determined
25 separately for passenger miles and freight miles. Then an
26 average of the passenger miles fraction and the freight

1 miles fraction shall be weighted to reflect the taxpayer's:

2 (A) relative railway operating income from total
3 passenger and total freight service, as reported to the
4 Surface Transportation Board, in the case of
5 transportation by railroad; and

6 (B) relative gross receipts from passenger and
7 freight transportation, in case of transportation
8 other than by railroad.

9 (4) For taxable years ending on or after December 31,
10 2008, business income derived from furnishing airline
11 transportation services shall be apportioned to this State
12 by multiplying such income by a fraction, the numerator of
13 which is the revenue miles of the person in this State, and
14 the denominator of which is the revenue miles of the person
15 everywhere. For purposes of this paragraph, a revenue mile
16 is the transportation of one passenger or one net ton of
17 freight the distance of one mile for a consideration. If a
18 person is engaged in the transportation of both passengers
19 and freight, the fraction above referred to shall be
20 determined by means of an average of the passenger revenue
21 mile fraction and the freight revenue mile fraction,
22 weighted to reflect the person's relative gross receipts
23 from passenger and freight airline transportation.

24 (e) Combined apportionment. Where 2 or more persons are
25 engaged in a unitary business as described in subsection
26 (a) (27) of Section 1501, a part of which is conducted in this

1 State by one or more members of the group, the business income
2 attributable to this State by any such member or members shall
3 be apportioned by means of the combined apportionment method.

4 (f) Alternative allocation. If the allocation and
5 apportionment provisions of subsections (a) through (e) and of
6 subsection (h) do not fairly represent the extent of a person's
7 business activity in this State, the person may petition for,
8 or the Director may, without a petition, permit or require, in
9 respect of all or any part of the person's business activity,
10 if reasonable:

11 (1) Separate accounting;

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

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

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

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

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

24 (1) for tax years ending on or after December 31, 1998
25 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
26 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of

1 the sales factor;

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

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

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

15 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11;
16 97-636, eff. 6-1-12.)

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, but not including a payment from which
11 withholding is required under Section 710 of this Act) to a
12 resident by a payor maintaining an office or transacting
13 business within this State (including any agency, officer, or
14 employee of this State or of any political subdivision of this
15 State) and on which withholding of tax is required under the
16 provisions of the Internal Revenue Code shall be deemed to be
17 compensation paid in this State by an employer to an employee
18 for the purposes of Article 7 and Section 601(b)(1) to the
19 extent such payment is included in the recipient's base income
20 and not subjected to withholding by another state.
21 Notwithstanding any other provision to the contrary, no amount
22 shall be withheld from unemployment insurance benefit payments
23 made to an individual pursuant to the Unemployment Insurance
24 Act unless the individual has voluntarily elected the
25 withholding pursuant to rules promulgated by the Director of
26 Employment Security.

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

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

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

22 (Source: P.A. 97-507, eff. 8-23-11.)

23 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

24 Sec. 710. Withholding from lottery, wagering and gambling
25 winnings. (a) In General.

1 (1) Any person making a payment to a resident or
2 nonresident of winnings under the Illinois Lottery Law and
3 not required to withhold Illinois income tax from such
4 payment under Subsection (b) of Section 701 of this Act
5 because those winnings are not subject to Federal income
6 tax withholding, must withhold Illinois income tax from
7 such payment at a rate equal to the percentage tax rate for
8 individuals provided in subsection (b) of Section 201,
9 provided that withholding is not required if such payment
10 of winnings is less than \$1,000.

11 (2) In the case of an assignment of a lottery prize
12 under Section 13.1 of the Illinois Lottery Law, any person
13 making a payment of the purchase price after December 31,
14 2012, shall withhold from the amount of each payment at a
15 rate equal to the percentage tax rate for individuals
16 provided in subsection (b) of Section 201.

17 (3) Any person making a payment after December 31,
18 2012, to a resident or nonresident of winnings from
19 pari-mutuel wagering conducted at a wagering facility
20 licensed under the Illinois Horse Racing Act of 1975 or
21 from gambling games conducted on a riverboat licensed under
22 the Riverboat Gambling Act must withhold Illinois income
23 tax from such payment at a rate equal to the percentage tax
24 rate for individuals provided in subsection (b) of Section
25 201, provided that withholding is required only if the
26 payment must be reported to the Internal Revenue Service by

1 the person making the payment.

2 (b) Credit for taxes withheld. Any amount withheld under
3 Subsection (a) shall be a credit against the Illinois income
4 tax liability of the person to whom the payment of winnings was
5 made for the taxable year in which that person incurred an
6 Illinois income tax liability with respect to those winnings.

7 (Source: P.A. 85-731.)

8 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

9 Sec. 905. Limitations on Notices of Deficiency.

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

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

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

16 (b) Substantial omission of items.

17 (1) Omission of more than 25% of income. If the
18 taxpayer omits from base income an amount properly
19 includible therein which is in excess of 25% of the amount
20 of base income stated in the return, a notice of deficiency
21 may be issued not later than 6 years after the return was
22 filed. For purposes of this paragraph, there shall not be
23 taken into account any amount which is omitted in the
24 return if such amount is disclosed in the return, or in a
25 statement attached to the return, in a manner adequate to

1 apprise the Department of the nature and the amount of such
2 item.

3 (2) Reportable transactions. If a taxpayer fails to
4 include on any return or statement for any taxable year any
5 information with respect to a reportable transaction, as
6 required under Section 501(b) of this Act, a notice of
7 deficiency may be issued not later than 6 years after the
8 return is filed with respect to the taxable year in which
9 the taxpayer participated in the reportable transaction
10 and said deficiency is limited to the non-disclosed item.

11 (3) Withholding. If an employer omits from a return
12 required under Section 704A of this Act for any period
13 beginning on or after January 1, 2012, an amount required
14 to be withheld and to be reported on that return which is
15 in excess of 25% of the total amount of withholding
16 required to be reported on that return, a notice of
17 deficiency may be issued not later than 6 years after the
18 return was filed.

19 (c) No return or fraudulent return. If no return is filed
20 or a false and fraudulent return is filed with intent to evade
21 the tax imposed by this Act, a notice of deficiency may be
22 issued at any time. For purposes of this subsection (c), any
23 taxpayer who is required to join in the filing of a return
24 filed under the provisions of subsection (e) of Section 502 of
25 this Act for a taxable year ending on or after December 31,
26 2012 and who is not included on that return and does not file

1 its own return for that taxable year shall be deemed to have
2 failed to file a return; provided that the amount of any
3 proposed assessment set forth in a notice of deficiency issued
4 under this subsection (c) shall be limited to the amount of any
5 increase in liability under this Act that should have reported
6 on the return required under the provisions of subsection (e)
7 of Section 502 of this Act for that taxable year resulting from
8 proper inclusion of that taxpayer on that return.

9 (d) Failure to report federal change. If a taxpayer fails
10 to notify the Department in any case where notification is
11 required by Section 304(c) or 506(b), or fails to report a
12 change or correction which is treated in the same manner as if
13 it were a deficiency for federal income tax purposes, a notice
14 of deficiency may be issued (i) at any time or (ii) on or after
15 August 13, 1999, at any time for the taxable year for which the
16 notification is required or for any taxable year to which the
17 taxpayer may carry an Article 2 credit, or a Section 207 loss,
18 earned, incurred, or used in the year for which the
19 notification is required; provided, however, that the amount of
20 any proposed assessment set forth in the notice shall be
21 limited to the amount of any deficiency resulting under this
22 Act from the recomputation of the taxpayer's net income,
23 Article 2 credits, or Section 207 loss earned, incurred, or
24 used in the taxable year for which the notification is required
25 after giving effect to the item or items required to be
26 reported.

1 (e) Report of federal change.

2 (1) Before August 13, 1999, in any case where
3 notification of an alteration is given as required by
4 Section 506(b), a notice of deficiency may be issued at any
5 time within 2 years after the date such notification is
6 given, provided, however, that the amount of any proposed
7 assessment set forth in such notice shall be limited to the
8 amount of any deficiency resulting under this Act from
9 recomputation of the taxpayer's net income, net loss, or
10 Article 2 credits for the taxable year after giving effect
11 to the item or items reflected in the reported alteration.

12 (2) On and after August 13, 1999, in any case where
13 notification of an alteration is given as required by
14 Section 506(b), a notice of deficiency may be issued at any
15 time within 2 years after the date such notification is
16 given for the taxable year for which the notification is
17 given or for any taxable year to which the taxpayer may
18 carry an Article 2 credit, or a Section 207 loss, earned,
19 incurred, or used in the year for which the notification is
20 given, provided, however, that the amount of any proposed
21 assessment set forth in such notice shall be limited to the
22 amount of any deficiency resulting under this Act from
23 recomputation of the taxpayer's net income, Article 2
24 credits, or Section 207 loss earned, incurred, or used in
25 the taxable year for which the notification is given after
26 giving effect to the item or items reflected in the

1 reported alteration.

2 (f) Extension by agreement. Where, before the expiration of
3 the time prescribed in this Section for the issuance of a
4 notice of deficiency, both the Department and the taxpayer
5 shall have consented in writing to its issuance after such
6 time, such notice may be issued at any time prior to the
7 expiration of the period agreed upon. In the case of a taxpayer
8 who is a partnership, Subchapter S corporation, or trust and
9 who enters into an agreement with the Department pursuant to
10 this subsection on or after January 1, 2003, a notice of
11 deficiency may be issued to the partners, shareholders, or
12 beneficiaries of the taxpayer at any time prior to the
13 expiration of the period agreed upon. Any proposed assessment
14 set forth in the notice, however, shall be limited to the
15 amount of any deficiency resulting under this Act from
16 recomputation of items of income, deduction, credits, or other
17 amounts of the taxpayer that are taken into account by the
18 partner, shareholder, or beneficiary in computing its
19 liability under this Act. The period so agreed upon may be
20 extended by subsequent agreements in writing made before the
21 expiration of the period previously agreed upon.

22 (g) Erroneous refunds. In any case in which there has been
23 an erroneous refund of tax payable under this Act, a notice of
24 deficiency may be issued at any time within 2 years from the
25 making of such refund, or within 5 years from the making of
26 such refund if it appears that any part of the refund was

1 induced by fraud or the misrepresentation of a material fact,
2 provided, however, that the amount of any proposed assessment
3 set forth in such notice shall be limited to the amount of such
4 erroneous refund.

5 Beginning July 1, 1993, in any case in which there has been
6 a refund of tax payable under this Act attributable to a net
7 loss carryback as provided for in Section 207, and that refund
8 is subsequently determined to be an erroneous refund due to a
9 reduction in the amount of the net loss which was originally
10 carried back, a notice of deficiency for the erroneous refund
11 amount may be issued at any time during the same time period in
12 which a notice of deficiency can be issued on the loss year
13 creating the carryback amount and subsequent erroneous refund.
14 The amount of any proposed assessment set forth in the notice
15 shall be limited to the amount of such erroneous refund.

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

20 (i) Request for prompt determination of liability. For
21 purposes of subsection (a)(1), in the case of a tax return
22 required under this Act in respect of a decedent, or by his
23 estate during the period of administration, or by a
24 corporation, the period referred to in such Subsection shall be
25 18 months after a written request for prompt determination of
26 liability is filed with the Department (at such time and in

1 such form and manner as the Department shall by regulations
2 prescribe) by the executor, administrator, or other fiduciary
3 representing the estate of such decedent, or by such
4 corporation, but not more than 3 years after the date the
5 return was filed. This subsection shall not apply in the case
6 of a corporation unless:

7 (1) (A) such written request notifies the Department
8 that the corporation contemplates dissolution at or before
9 the expiration of such 18-month period, (B) the dissolution
10 is begun in good faith before the expiration of such
11 18-month period, and (C) the dissolution is completed;

12 (2) (A) such written request notifies the Department
13 that a dissolution has in good faith been begun, and (B)
14 the dissolution is completed; or

15 (3) a dissolution has been completed at the time such
16 written request is made.

17 (j) Withholding tax. In the case of returns required under
18 Article 7 of this Act (with respect to any amounts withheld as
19 tax or any amounts required to have been withheld as tax) a
20 notice of deficiency shall be issued not later than 3 years
21 after the 15th day of the 4th month following the close of the
22 calendar year in which such withholding was required.

23 (k) Penalties for failure to make information reports. A
24 notice of deficiency for the penalties provided by Subsection
25 1405.1(c) of this Act may not be issued more than 3 years after
26 the due date of the reports with respect to which the penalties

1 are asserted.

2 (l) Penalty for failure to file withholding returns. A
3 notice of deficiency for penalties provided by Section 1004 of
4 this Act for taxpayer's failure to file withholding returns may
5 not be issued more than three years after the 15th day of the
6 4th month following the close of the calendar year in which the
7 withholding giving rise to taxpayer's obligation to file those
8 returns occurred.

9 (m) Transferee liability. A notice of deficiency may be
10 issued to a transferee relative to a liability asserted under
11 Section 1405 during time periods defined as follows:

12 1) Initial Transferee. In the case of the liability of
13 an initial transferee, up to 2 years after the expiration
14 of the period of limitation for assessment against the
15 transferor, except that if a court proceeding for review of
16 the assessment against the transferor has begun, then up to
17 2 years after the return of the certified copy of the
18 judgment in the court proceeding.

19 2) Transferee of Transferee. In the case of the
20 liability of a transferee, up to 2 years after the
21 expiration of the period of limitation for assessment
22 against the preceding transferee, but not more than 3 years
23 after the expiration of the period of limitation for
24 assessment against the initial transferor; except that if,
25 before the expiration of the period of limitation for the
26 assessment of the liability of the transferee, a court

1 proceeding for the collection of the tax or liability in
2 respect thereof has been begun against the initial
3 transferor or the last preceding transferee, as the case
4 may be, then the period of limitation for assessment of the
5 liability of the transferee shall expire 2 years after the
6 return of the certified copy of the judgment in the court
7 proceeding.

8 (n) Notice of decrease in net loss. On and after August 23,
9 2002, no notice of deficiency shall be issued as the result of
10 a decrease determined by the Department in the net loss
11 incurred by a taxpayer in any taxable year ending prior to
12 December 31, 2002 under Section 207 of this Act unless the
13 Department has notified the taxpayer of the proposed decrease
14 within 3 years after the return reporting the loss was filed or
15 within one year after an amended return reporting an increase
16 in the loss was filed, provided that in the case of an amended
17 return, a decrease proposed by the Department more than 3 years
18 after the original return was filed may not exceed the increase
19 claimed by the taxpayer on the original return.

20 (Source: P.A. 93-840, eff. 7-30-04; 94-836, eff. 6-6-06.)

21 Section 20. The Use Tax Act is amended by changing Section
22 9 as follows:

23 (35 ILCS 105/9) (from Ch. 120, par. 439.9)

24 Sec. 9. Except as to motor vehicles, watercraft, aircraft,

1 and trailers that are required to be registered with an agency
2 of this State, each retailer required or authorized to collect
3 the tax imposed by this Act shall pay to the Department the
4 amount of such tax (except as otherwise provided) at the time
5 when he is required to file his return for the period during
6 which such tax was collected, less a discount of 2.1% prior to
7 January 1, 1990, and 1.75% on and after January 1, 1990, or \$5
8 per calendar year, whichever is greater, which is allowed to
9 reimburse the retailer for expenses incurred in collecting the
10 tax, keeping records, preparing and filing returns, remitting
11 the tax and supplying data to the Department on request. In the
12 case of retailers who report and pay the tax on a transaction
13 by transaction basis, as provided in this Section, such
14 discount shall be taken with each such tax remittance instead
15 of when such retailer files his periodic return. No discount
16 shall be allowed for retailers that do not possess a valid
17 certificate of registration at the time the sale or sales are
18 made upon which the discount is taken. A retailer need not
19 remit that part of any tax collected by him to the extent that
20 he is required to remit and does remit the tax imposed by the
21 Retailers' Occupation Tax Act, with respect to the sale of the
22 same property.

23 Where such tangible personal property is sold under a
24 conditional sales contract, or under any other form of sale
25 wherein the payment of the principal sum, or a part thereof, is
26 extended beyond the close of the period for which the return is

1 filed, the retailer, in collecting the tax (except as to motor
2 vehicles, watercraft, aircraft, and trailers that are required
3 to be registered with an agency of this State), may collect for
4 each tax return period, only the tax applicable to that part of
5 the selling price actually received during such tax return
6 period.

7 Except as provided in this Section, on or before the
8 twentieth day of each calendar month, such retailer shall file
9 a return for the preceding calendar month. Such return shall be
10 filed on forms prescribed by the Department and shall furnish
11 such information as the Department may reasonably require.

12 The Department may require returns to be filed on a
13 quarterly basis. If so required, a return for each calendar
14 quarter shall be filed on or before the twentieth day of the
15 calendar month following the end of such calendar quarter. The
16 taxpayer shall also file a return with the Department for each
17 of the first two months of each calendar quarter, on or before
18 the twentieth day of the following calendar month, stating:

19 1. The name of the seller;

20 2. The address of the principal place of business from
21 which he engages in the business of selling tangible
22 personal property at retail in this State;

23 3. The total amount of taxable receipts received by him
24 during the preceding calendar month from sales of tangible
25 personal property by him during such preceding calendar
26 month, including receipts from charge and time sales, but

1 less all deductions allowed by law;

2 4. The amount of credit provided in Section 2d of this
3 Act;

4 5. The amount of tax due;

5 5-5. The signature of the taxpayer; and

6 6. Such other reasonable information as the Department
7 may require.

8 If a taxpayer fails to sign a return within 30 days after
9 the proper notice and demand for signature by the Department,
10 the return shall be considered valid and any amount shown to be
11 due on the return shall be deemed assessed.

12 Beginning October 1, 1993, a taxpayer who has an average
13 monthly tax liability of \$150,000 or more shall make all
14 payments required by rules of the Department by electronic
15 funds transfer. Beginning October 1, 1994, a taxpayer who has
16 an average monthly tax liability of \$100,000 or more shall make
17 all payments required by rules of the Department by electronic
18 funds transfer. Beginning October 1, 1995, a taxpayer who has
19 an average monthly tax liability of \$50,000 or more shall make
20 all payments required by rules of the Department by electronic
21 funds transfer. Beginning October 1, 2000, a taxpayer who has
22 an annual tax liability of \$200,000 or more shall make all
23 payments required by rules of the Department by electronic
24 funds transfer. The term "annual tax liability" shall be the
25 sum of the taxpayer's liabilities under this Act, and under all
26 other State and local occupation and use tax laws administered

1 by the Department, for the immediately preceding calendar year.
2 The term "average monthly tax liability" means the sum of the
3 taxpayer's liabilities under this Act, and under all other
4 State and local occupation and use tax laws administered by the
5 Department, for the immediately preceding calendar year
6 divided by 12. Beginning on October 1, 2002, a taxpayer who has
7 a tax liability in the amount set forth in subsection (b) of
8 Section 2505-210 of the Department of Revenue Law shall make
9 all payments required by rules of the Department by electronic
10 funds transfer.

11 Before August 1 of each year beginning in 1993, the
12 Department shall notify all taxpayers required to make payments
13 by electronic funds transfer. All taxpayers required to make
14 payments by electronic funds transfer shall make those payments
15 for a minimum of one year beginning on October 1.

16 Any taxpayer not required to make payments by electronic
17 funds transfer may make payments by electronic funds transfer
18 with the permission of the Department.

19 All taxpayers required to make payment by electronic funds
20 transfer and any taxpayers authorized to voluntarily make
21 payments by electronic funds transfer shall make those payments
22 in the manner authorized by the Department.

23 The Department shall adopt such rules as are necessary to
24 effectuate a program of electronic funds transfer and the
25 requirements of this Section.

26 Before October 1, 2000, if the taxpayer's average monthly

1 tax liability to the Department under this Act, the Retailers'
2 Occupation Tax Act, the Service Occupation Tax Act, the Service
3 Use Tax Act was \$10,000 or more during the preceding 4 complete
4 calendar quarters, he shall file a return with the Department
5 each month by the 20th day of the month next following the
6 month during which such tax liability is incurred and shall
7 make payments to the Department on or before the 7th, 15th,
8 22nd and last day of the month during which such liability is
9 incurred. On and after October 1, 2000, if the taxpayer's
10 average monthly tax liability to the Department under this Act,
11 the Retailers' Occupation Tax Act, the Service Occupation Tax
12 Act, and the Service Use Tax Act was \$20,000 or more during the
13 preceding 4 complete calendar quarters, he shall file a return
14 with the Department each month by the 20th day of the month
15 next following the month during which such tax liability is
16 incurred and shall make payment to the Department on or before
17 the 7th, 15th, 22nd and last day of the month during which such
18 liability is incurred. If the month during which such tax
19 liability is incurred began prior to January 1, 1985, each
20 payment shall be in an amount equal to 1/4 of the taxpayer's
21 actual liability for the month or an amount set by the
22 Department not to exceed 1/4 of the average monthly liability
23 of the taxpayer to the Department for the preceding 4 complete
24 calendar quarters (excluding the month of highest liability and
25 the month of lowest liability in such 4 quarter period). If the
26 month during which such tax liability is incurred begins on or

1 after January 1, 1985, and prior to January 1, 1987, each
2 payment shall be in an amount equal to 22.5% of the taxpayer's
3 actual liability for the month or 27.5% of the taxpayer's
4 liability for the same calendar month of the preceding year. If
5 the month during which such tax liability is incurred begins on
6 or after January 1, 1987, and prior to January 1, 1988, each
7 payment shall be in an amount equal to 22.5% of the taxpayer's
8 actual liability for the month or 26.25% of the taxpayer's
9 liability for the same calendar month of the preceding year. If
10 the month during which such tax liability is incurred begins on
11 or after January 1, 1988, and prior to January 1, 1989, or
12 begins on or after January 1, 1996, each payment shall be in an
13 amount equal to 22.5% of the taxpayer's actual liability for
14 the month or 25% of the taxpayer's liability for the same
15 calendar month of the preceding year. If the month during which
16 such tax liability is incurred begins on or after January 1,
17 1989, and prior to January 1, 1996, each payment shall be in an
18 amount equal to 22.5% of the taxpayer's actual liability for
19 the month or 25% of the taxpayer's liability for the same
20 calendar month of the preceding year or 100% of the taxpayer's
21 actual liability for the quarter monthly reporting period. The
22 amount of such quarter monthly payments shall be credited
23 against the final tax liability of the taxpayer's return for
24 that month. Before October 1, 2000, once applicable, the
25 requirement of the making of quarter monthly payments to the
26 Department shall continue until such taxpayer's average

1 monthly liability to the Department during the preceding 4
2 complete calendar quarters (excluding the month of highest
3 liability and the month of lowest liability) is less than
4 \$9,000, or until such taxpayer's average monthly liability to
5 the Department as computed for each calendar quarter of the 4
6 preceding complete calendar quarter period is less than
7 \$10,000. However, if a taxpayer can show the Department that a
8 substantial change in the taxpayer's business has occurred
9 which causes the taxpayer to anticipate that his average
10 monthly tax liability for the reasonably foreseeable future
11 will fall below the \$10,000 threshold stated above, then such
12 taxpayer may petition the Department for change in such
13 taxpayer's reporting status. On and after October 1, 2000, once
14 applicable, the requirement of the making of quarter monthly
15 payments to the Department shall continue until such taxpayer's
16 average monthly liability to the Department during the
17 preceding 4 complete calendar quarters (excluding the month of
18 highest liability and the month of lowest liability) is less
19 than \$19,000 or until such taxpayer's average monthly liability
20 to the Department as computed for each calendar quarter of the
21 4 preceding complete calendar quarter period is less than
22 \$20,000. However, if a taxpayer can show the Department that a
23 substantial change in the taxpayer's business has occurred
24 which causes the taxpayer to anticipate that his average
25 monthly tax liability for the reasonably foreseeable future
26 will fall below the \$20,000 threshold stated above, then such

1 taxpayer may petition the Department for a change in such
2 taxpayer's reporting status. The Department shall change such
3 taxpayer's reporting status unless it finds that such change is
4 seasonal in nature and not likely to be long term. If any such
5 quarter monthly payment is not paid at the time or in the
6 amount required by this Section, then the taxpayer shall be
7 liable for penalties and interest on the difference between the
8 minimum amount due and the amount of such quarter monthly
9 payment actually and timely paid, except insofar as the
10 taxpayer has previously made payments for that month to the
11 Department in excess of the minimum payments previously due as
12 provided in this Section. The Department shall make reasonable
13 rules and regulations to govern the quarter monthly payment
14 amount and quarter monthly payment dates for taxpayers who file
15 on other than a calendar monthly basis.

16 If any such payment provided for in this Section exceeds
17 the taxpayer's liabilities under this Act, the Retailers'
18 Occupation Tax Act, the Service Occupation Tax Act and the
19 Service Use Tax Act, as shown by an original monthly return,
20 the Department shall issue to the taxpayer a credit memorandum
21 no later than 30 days after the date of payment, which
22 memorandum may be submitted by the taxpayer to the Department
23 in payment of tax liability subsequently to be remitted by the
24 taxpayer to the Department or be assigned by the taxpayer to a
25 similar taxpayer under this Act, the Retailers' Occupation Tax
26 Act, the Service Occupation Tax Act or the Service Use Tax Act,

1 in accordance with reasonable rules and regulations to be
2 prescribed by the Department, except that if such excess
3 payment is shown on an original monthly return and is made
4 after December 31, 1986, no credit memorandum shall be issued,
5 unless requested by the taxpayer. If no such request is made,
6 the taxpayer may credit such excess payment against tax
7 liability subsequently to be remitted by the taxpayer to the
8 Department under this Act, the Retailers' Occupation Tax Act,
9 the Service Occupation Tax Act or the Service Use Tax Act, in
10 accordance with reasonable rules and regulations prescribed by
11 the Department. If the Department subsequently determines that
12 all or any part of the credit taken was not actually due to the
13 taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall
14 be reduced by 2.1% or 1.75% of the difference between the
15 credit taken and that actually due, and the taxpayer shall be
16 liable for penalties and interest on such difference.

17 If the retailer is otherwise required to file a monthly
18 return and if the retailer's average monthly tax liability to
19 the Department does not exceed \$200, the Department may
20 authorize his returns to be filed on a quarter annual basis,
21 with the return for January, February, and March of a given
22 year being due by April 20 of such year; with the return for
23 April, May and June of a given year being due by July 20 of such
24 year; with the return for July, August and September of a given
25 year being due by October 20 of such year, and with the return
26 for October, November and December of a given year being due by

1 January 20 of the following year.

2 If the retailer is otherwise required to file a monthly or
3 quarterly return and if the retailer's average monthly tax
4 liability to the Department does not exceed \$50, the Department
5 may authorize his returns to be filed on an annual basis, with
6 the return for a given year being due by January 20 of the
7 following year.

8 Such quarter annual and annual returns, as to form and
9 substance, shall be subject to the same requirements as monthly
10 returns.

11 Notwithstanding any other provision in this Act concerning
12 the time within which a retailer may file his return, in the
13 case of any retailer who ceases to engage in a kind of business
14 which makes him responsible for filing returns under this Act,
15 such retailer shall file a final return under this Act with the
16 Department not more than one month after discontinuing such
17 business.

18 In addition, with respect to motor vehicles, watercraft,
19 aircraft, and trailers that are required to be registered with
20 an agency of this State, every retailer selling this kind of
21 tangible personal property shall file, with the Department,
22 upon a form to be prescribed and supplied by the Department, a
23 separate return for each such item of tangible personal
24 property which the retailer sells, except that if, in the same
25 transaction, (i) a retailer of aircraft, watercraft, motor
26 vehicles or trailers transfers more than one aircraft,

1 watercraft, motor vehicle or trailer to another aircraft,
2 watercraft, motor vehicle or trailer retailer for the purpose
3 of resale or (ii) a retailer of aircraft, watercraft, motor
4 vehicles, or trailers transfers more than one aircraft,
5 watercraft, motor vehicle, or trailer to a purchaser for use as
6 a qualifying rolling stock as provided in Section 3-55 of this
7 Act, then that seller may report the transfer of all the
8 aircraft, watercraft, motor vehicles or trailers involved in
9 that transaction to the Department on the same uniform
10 invoice-transaction reporting return form. For purposes of
11 this Section, "watercraft" means a Class 2, Class 3, or Class 4
12 watercraft as defined in Section 3-2 of the Boat Registration
13 and Safety Act, a personal watercraft, or any boat equipped
14 with an inboard motor.

15 The transaction reporting return in the case of motor
16 vehicles or trailers that are required to be registered with an
17 agency of this State, shall be the same document as the Uniform
18 Invoice referred to in Section 5-402 of the Illinois Vehicle
19 Code and must show the name and address of the seller; the name
20 and address of the purchaser; the amount of the selling price
21 including the amount allowed by the retailer for traded-in
22 property, if any; the amount allowed by the retailer for the
23 traded-in tangible personal property, if any, to the extent to
24 which Section 2 of this Act allows an exemption for the value
25 of traded-in property; the balance payable after deducting such
26 trade-in allowance from the total selling price; the amount of

1 tax due from the retailer with respect to such transaction; the
2 amount of tax collected from the purchaser by the retailer on
3 such transaction (or satisfactory evidence that such tax is not
4 due in that particular instance, if that is claimed to be the
5 fact); the place and date of the sale; a sufficient
6 identification of the property sold; such other information as
7 is required in Section 5-402 of the Illinois Vehicle Code, and
8 such other information as the Department may reasonably
9 require.

10 The transaction reporting return in the case of watercraft
11 and aircraft must show the name and address of the seller; the
12 name and address of the purchaser; the amount of the selling
13 price including the amount allowed by the retailer for
14 traded-in property, if any; the amount allowed by the retailer
15 for the traded-in tangible personal property, if any, to the
16 extent to which Section 2 of this Act allows an exemption for
17 the value of traded-in property; the balance payable after
18 deducting such trade-in allowance from the total selling price;
19 the amount of tax due from the retailer with respect to such
20 transaction; the amount of tax collected from the purchaser by
21 the retailer on such transaction (or satisfactory evidence that
22 such tax is not due in that particular instance, if that is
23 claimed to be the fact); the place and date of the sale, a
24 sufficient identification of the property sold, and such other
25 information as the Department may reasonably require.

26 Such transaction reporting return shall be filed not later

1 than 20 days after the date of delivery of the item that is
2 being sold, but may be filed by the retailer at any time sooner
3 than that if he chooses to do so. The transaction reporting
4 return and tax remittance or proof of exemption from the tax
5 that is imposed by this Act may be transmitted to the
6 Department by way of the State agency with which, or State
7 officer with whom, the tangible personal property must be
8 titled or registered (if titling or registration is required)
9 if the Department and such agency or State officer determine
10 that this procedure will expedite the processing of
11 applications for title or registration.

12 With each such transaction reporting return, the retailer
13 shall remit the proper amount of tax due (or shall submit
14 satisfactory evidence that the sale is not taxable if that is
15 the case), to the Department or its agents, whereupon the
16 Department shall issue, in the purchaser's name, a tax receipt
17 (or a certificate of exemption if the Department is satisfied
18 that the particular sale is tax exempt) which such purchaser
19 may submit to the agency with which, or State officer with
20 whom, he must title or register the tangible personal property
21 that is involved (if titling or registration is required) in
22 support of such purchaser's application for an Illinois
23 certificate or other evidence of title or registration to such
24 tangible personal property.

25 No retailer's failure or refusal to remit tax under this
26 Act precludes a user, who has paid the proper tax to the

1 retailer, from obtaining his certificate of title or other
2 evidence of title or registration (if titling or registration
3 is required) upon satisfying the Department that such user has
4 paid the proper tax (if tax is due) to the retailer. The
5 Department shall adopt appropriate rules to carry out the
6 mandate of this paragraph.

7 If the user who would otherwise pay tax to the retailer
8 wants the transaction reporting return filed and the payment of
9 tax or proof of exemption made to the Department before the
10 retailer is willing to take these actions and such user has not
11 paid the tax to the retailer, such user may certify to the fact
12 of such delay by the retailer, and may (upon the Department
13 being satisfied of the truth of such certification) transmit
14 the information required by the transaction reporting return
15 and the remittance for tax or proof of exemption directly to
16 the Department and obtain his tax receipt or exemption
17 determination, in which event the transaction reporting return
18 and tax remittance (if a tax payment was required) shall be
19 credited by the Department to the proper retailer's account
20 with the Department, but without the 2.1% or 1.75% discount
21 provided for in this Section being allowed. When the user pays
22 the tax directly to the Department, he shall pay the tax in the
23 same amount and in the same form in which it would be remitted
24 if the tax had been remitted to the Department by the retailer.

25 Where a retailer collects the tax with respect to the
26 selling price of tangible personal property which he sells and

1 the purchaser thereafter returns such tangible personal
2 property and the retailer refunds the selling price thereof to
3 the purchaser, such retailer shall also refund, to the
4 purchaser, the tax so collected from the purchaser. When filing
5 his return for the period in which he refunds such tax to the
6 purchaser, the retailer may deduct the amount of the tax so
7 refunded by him to the purchaser from any other use tax which
8 such retailer may be required to pay or remit to the
9 Department, as shown by such return, if the amount of the tax
10 to be deducted was previously remitted to the Department by
11 such retailer. If the retailer has not previously remitted the
12 amount of such tax to the Department, he is entitled to no
13 deduction under this Act upon refunding such tax to the
14 purchaser.

15 Any retailer filing a return under this Section shall also
16 include (for the purpose of paying tax thereon) the total tax
17 covered by such return upon the selling price of tangible
18 personal property purchased by him at retail from a retailer,
19 but as to which the tax imposed by this Act was not collected
20 from the retailer filing such return, and such retailer shall
21 remit the amount of such tax to the Department when filing such
22 return.

23 If experience indicates such action to be practicable, the
24 Department may prescribe and furnish a combination or joint
25 return which will enable retailers, who are required to file
26 returns hereunder and also under the Retailers' Occupation Tax

1 Act, to furnish all the return information required by both
2 Acts on the one form.

3 Where the retailer has more than one business registered
4 with the Department under separate registration under this Act,
5 such retailer may not file each return that is due as a single
6 return covering all such registered businesses, but shall file
7 separate returns for each such registered business.

8 Beginning January 1, 1990, each month the Department shall
9 pay into the State and Local Sales Tax Reform Fund, a special
10 fund in the State Treasury which is hereby created, the net
11 revenue realized for the preceding month from the 1% tax on
12 sales of food for human consumption which is to be consumed off
13 the premises where it is sold (other than alcoholic beverages,
14 soft drinks and food which has been prepared for immediate
15 consumption) and prescription and nonprescription medicines,
16 drugs, medical appliances and insulin, urine testing
17 materials, syringes and needles used by diabetics.

18 Beginning January 1, 1990, each month the Department shall
19 pay into the County and Mass Transit District Fund 4% of the
20 net revenue realized for the preceding month from the 6.25%
21 general rate on the selling price of tangible personal property
22 which is purchased outside Illinois at retail from a retailer
23 and which is titled or registered by an agency of this State's
24 government.

25 Beginning January 1, 1990, each month the Department shall
26 pay into the State and Local Sales Tax Reform Fund, a special

1 fund in the State Treasury, 20% of the net revenue realized for
2 the preceding month from the 6.25% general rate on the selling
3 price of tangible personal property, other than tangible
4 personal property which is purchased outside Illinois at retail
5 from a retailer and which is titled or registered by an agency
6 of this State's government.

7 Beginning August 1, 2000, each month the Department shall
8 pay into the State and Local Sales Tax Reform Fund 100% of the
9 net revenue realized for the preceding month from the 1.25%
10 rate on the selling price of motor fuel and gasohol. Beginning
11 September 1, 2010, each month the Department shall pay into the
12 State and Local Sales Tax Reform Fund 100% of the net revenue
13 realized for the preceding month from the 1.25% rate on the
14 selling price of sales tax holiday items.

15 Beginning January 1, 1990, each month the Department shall
16 pay into the Local Government Tax Fund 16% of the net revenue
17 realized for the preceding month from the 6.25% general rate on
18 the selling price of tangible personal property which is
19 purchased outside Illinois at retail from a retailer and which
20 is titled or registered by an agency of this State's
21 government.

22 Beginning October 1, 2009, each month the Department shall
23 pay into the Capital Projects Fund an amount that is equal to
24 an amount estimated by the Department to represent 80% of the
25 net revenue realized for the preceding month from the sale of
26 candy, grooming and hygiene products, and soft drinks that had

1 been taxed at a rate of 1% prior to September 1, 2009 but that
2 is now taxed at 6.25%.

3 Beginning July 1, 2011, each month the Department shall pay
4 into the Clean Air Act (CAA) Permit Fund 80% of the net revenue
5 realized for the preceding month from the 6.25% general rate on
6 the selling price of sorbents used in Illinois in the process
7 of sorbent injection as used to comply with the Environmental
8 Protection Act or the federal Clean Air Act, but the total
9 payment into the Clean Air Act (CAA) Permit Fund under this Act
10 and the Retailers' Occupation Tax Act shall not exceed
11 \$2,000,000 in any fiscal year.

12 Of the remainder of the moneys received by the Department
13 pursuant to this Act, (a) 1.75% thereof shall be paid into the
14 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
15 and after July 1, 1989, 3.8% thereof shall be paid into the
16 Build Illinois Fund; provided, however, that if in any fiscal
17 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
18 may be, of the moneys received by the Department and required
19 to be paid into the Build Illinois Fund pursuant to Section 3
20 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
21 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
22 Service Occupation Tax Act, such Acts being hereinafter called
23 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
24 may be, of moneys being hereinafter called the "Tax Act
25 Amount", and (2) the amount transferred to the Build Illinois
26 Fund from the State and Local Sales Tax Reform Fund shall be

1 less than the Annual Specified Amount (as defined in Section 3
2 of the Retailers' Occupation Tax Act), an amount equal to the
3 difference shall be immediately paid into the Build Illinois
4 Fund from other moneys received by the Department pursuant to
5 the Tax Acts; and further provided, that if on the last
6 business day of any month the sum of (1) the Tax Act Amount
7 required to be deposited into the Build Illinois Bond Account
8 in the Build Illinois Fund during such month and (2) the amount
9 transferred during such month to the Build Illinois Fund from
10 the State and Local Sales Tax Reform Fund shall have been less
11 than 1/12 of the Annual Specified Amount, an amount equal to
12 the difference shall be immediately paid into the Build
13 Illinois Fund from other moneys received by the Department
14 pursuant to the Tax Acts; and, further provided, that in no
15 event shall the payments required under the preceding proviso
16 result in aggregate payments into the Build Illinois Fund
17 pursuant to this clause (b) for any fiscal year in excess of
18 the greater of (i) the Tax Act Amount or (ii) the Annual
19 Specified Amount for such fiscal year; and, further provided,
20 that the amounts payable into the Build Illinois Fund under
21 this clause (b) shall be payable only until such time as the
22 aggregate amount on deposit under each trust indenture securing
23 Bonds issued and outstanding pursuant to the Build Illinois
24 Bond Act is sufficient, taking into account any future
25 investment income, to fully provide, in accordance with such
26 indenture, for the defeasance of or the payment of the

1 principal of, premium, if any, and interest on the Bonds
2 secured by such indenture and on any Bonds expected to be
3 issued thereafter and all fees and costs payable with respect
4 thereto, all as certified by the Director of the Bureau of the
5 Budget (now Governor's Office of Management and Budget). If on
6 the last business day of any month in which Bonds are
7 outstanding pursuant to the Build Illinois Bond Act, the
8 aggregate of the moneys deposited in the Build Illinois Bond
9 Account in the Build Illinois Fund in such month shall be less
10 than the amount required to be transferred in such month from
11 the Build Illinois Bond Account to the Build Illinois Bond
12 Retirement and Interest Fund pursuant to Section 13 of the
13 Build Illinois Bond Act, an amount equal to such deficiency
14 shall be immediately paid from other moneys received by the
15 Department pursuant to the Tax Acts to the Build Illinois Fund;
16 provided, however, that any amounts paid to the Build Illinois
17 Fund in any fiscal year pursuant to this sentence shall be
18 deemed to constitute payments pursuant to clause (b) of the
19 preceding sentence and shall reduce the amount otherwise
20 payable for such fiscal year pursuant to clause (b) of the
21 preceding sentence. The moneys received by the Department
22 pursuant to this Act and required to be deposited into the
23 Build Illinois Fund are subject to the pledge, claim and charge
24 set forth in Section 12 of the Build Illinois Bond Act.

25 Subject to payment of amounts into the Build Illinois Fund
26 as provided in the preceding paragraph or in any amendment

1 thereto hereafter enacted, the following specified monthly
2 installment of the amount requested in the certificate of the
3 Chairman of the Metropolitan Pier and Exposition Authority
4 provided under Section 8.25f of the State Finance Act, but not
5 in excess of the sums designated as "Total Deposit", shall be
6 deposited in the aggregate from collections under Section 9 of
7 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
8 9 of the Service Occupation Tax Act, and Section 3 of the
9 Retailers' Occupation Tax Act into the McCormick Place
10 Expansion Project Fund in the specified fiscal years.

11	Fiscal Year	Total Deposit
12	1993	\$0
13	1994	53,000,000
14	1995	58,000,000
15	1996	61,000,000
16	1997	64,000,000
17	1998	68,000,000
18	1999	71,000,000
19	2000	75,000,000
20	2001	80,000,000
21	2002	93,000,000
22	2003	99,000,000
23	2004	103,000,000
24	2005	108,000,000
25	2006	113,000,000
26	2007	119,000,000

1	2008	126,000,000
2	2009	132,000,000
3	2010	139,000,000
4	2011	146,000,000
5	2012	153,000,000
6	2013	161,000,000
7	2014	170,000,000
8	2015	179,000,000
9	2016	189,000,000
10	2017	199,000,000
11	2018	210,000,000
12	2019	221,000,000
13	2020	233,000,000
14	2021	246,000,000
15	2022	260,000,000
16	2023	275,000,000
17	2024	275,000,000
18	2025	275,000,000
19	2026	279,000,000
20	2027	292,000,000
21	2028	307,000,000
22	2029	322,000,000
23	2030	338,000,000
24	2031	350,000,000
25	2032	350,000,000
26	and	

1 each fiscal year
2 thereafter that bonds
3 are outstanding under
4 Section 13.2 of the
5 Metropolitan Pier and
6 Exposition Authority Act,
7 but not after fiscal year 2060.

8 Beginning July 20, 1993 and in each month of each fiscal
9 year thereafter, one-eighth of the amount requested in the
10 certificate of the Chairman of the Metropolitan Pier and
11 Exposition Authority for that fiscal year, less the amount
12 deposited into the McCormick Place Expansion Project Fund by
13 the State Treasurer in the respective month under subsection
14 (g) of Section 13 of the Metropolitan Pier and Exposition
15 Authority Act, plus cumulative deficiencies in the deposits
16 required under this Section for previous months and years,
17 shall be deposited into the McCormick Place Expansion Project
18 Fund, until the full amount requested for the fiscal year, but
19 not in excess of the amount specified above as "Total Deposit",
20 has been deposited.

21 Subject to payment of amounts into the Build Illinois Fund
22 and the McCormick Place Expansion Project Fund pursuant to the
23 preceding paragraphs or in any amendments thereto hereafter
24 enacted, beginning July 1, 1993, the Department shall each
25 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
26 the net revenue realized for the preceding month from the 6.25%

1 general rate on the selling price of tangible personal
2 property.

3 Subject to payment of amounts into the Build Illinois Fund
4 and the McCormick Place Expansion Project Fund pursuant to the
5 preceding paragraphs or in any amendments thereto hereafter
6 enacted, beginning with the receipt of the first report of
7 taxes paid by an eligible business and continuing for a 25-year
8 period, the Department shall each month pay into the Energy
9 Infrastructure Fund 80% of the net revenue realized from the
10 6.25% general rate on the selling price of Illinois-mined coal
11 that was sold to an eligible business. For purposes of this
12 paragraph, the term "eligible business" means a new electric
13 generating facility certified pursuant to Section 605-332 of
14 the Department of Commerce and Economic Opportunity Law of the
15 Civil Administrative Code of Illinois.

16 Of the remainder of the moneys received by the Department
17 pursuant to this Act, 75% thereof shall be paid into the State
18 Treasury and 25% shall be reserved in a special account and
19 used only for the transfer to the Common School Fund as part of
20 the monthly transfer from the General Revenue Fund in
21 accordance with Section 8a of the State Finance Act.

22 As soon as possible after the first day of each month, upon
23 certification of the Department of Revenue, the Comptroller
24 shall order transferred and the Treasurer shall transfer from
25 the General Revenue Fund to the Motor Fuel Tax Fund an amount
26 equal to 1.7% of 80% of the net revenue realized under this Act

1 for the second preceding month. Beginning April 1, 2000, this
2 transfer is no longer required and shall not be made.

3 Net revenue realized for a month shall be the revenue
4 collected by the State pursuant to this Act, less the amount
5 paid out during that month as refunds to taxpayers for
6 overpayment of liability.

7 For greater simplicity of administration, manufacturers,
8 importers and wholesalers whose products are sold at retail in
9 Illinois by numerous retailers, and who wish to do so, may
10 assume the responsibility for accounting and paying to the
11 Department all tax accruing under this Act with respect to such
12 sales, if the retailers who are affected do not make written
13 objection to the Department to this arrangement.

14 (Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,
15 eff. 5-27-10; 96-1012, eff. 7-7-10; 97-95, eff. 7-12-11;
16 97-333, eff. 8-12-11.)

17 Section 25. The Retailers' Occupation Tax Act is amended by
18 changing Section 2a as follows:

19 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

20 Sec. 2a. It is unlawful for any person to engage in the
21 business of selling tangible personal property at retail in
22 this State without a certificate of registration from the
23 Department. Application for a certificate of registration
24 shall be made to the Department upon forms furnished by it.

1 Each such application shall be signed and verified and shall
2 state: (1) the name and social security number of the
3 applicant; (2) the address of his principal place of business;
4 (3) the address of the principal place of business from which
5 he engages in the business of selling tangible personal
6 property at retail in this State and the addresses of all other
7 places of business, if any (enumerating such addresses, if any,
8 in a separate list attached to and made a part of the
9 application), from which he engages in the business of selling
10 tangible personal property at retail in this State; (4) the
11 name and address of the person or persons who will be
12 responsible for filing returns and payment of taxes due under
13 this Act; (5) in the case of a corporation, the name, title,
14 and social security number of each corporate officer; (6) in
15 the case of a limited liability company, the name, social
16 security number, and FEIN number of each manager and member;
17 and (7) such other information as the Department may reasonably
18 require. The application shall contain an acceptance of
19 responsibility signed by the person or persons who will be
20 responsible for filing returns and payment of the taxes due
21 under this Act. If the applicant will sell tangible personal
22 property at retail through vending machines, his application to
23 register shall indicate the number of vending machines to be so
24 operated. If requested by the Department at any time, that
25 person shall verify the total number of vending machines he or
26 she uses in his or her business of selling tangible personal

1 property at retail.

2 The Department may deny a certificate of registration to
3 any applicant if the owner, any partner, any manager or member
4 of a limited liability company, or a corporate officer of the
5 applicant, is or has been the owner, a partner, a manager or
6 member of a limited liability company, or a corporate officer,
7 of another retailer that is in default for moneys due under
8 this Act or any other tax or fee Act administered by the
9 Department.

10 The Department may require an applicant for a certificate
11 of registration hereunder to, at the time of filing such
12 application, furnish a bond from a surety company authorized to
13 do business in the State of Illinois, or an irrevocable bank
14 letter of credit or a bond signed by 2 personal sureties who
15 have filed, with the Department, sworn statements disclosing
16 net assets equal to at least 3 times the amount of the bond to
17 be required of such applicant, or a bond secured by an
18 assignment of a bank account or certificate of deposit, stocks
19 or bonds, conditioned upon the applicant paying to the State of
20 Illinois all moneys becoming due under this Act and under any
21 other State tax law or municipal or county tax ordinance or
22 resolution under which the certificate of registration that is
23 issued to the applicant under this Act will permit the
24 applicant to engage in business without registering separately
25 under such other law, ordinance or resolution. In making a
26 determination as to whether to require a bond or other

1 security, the Department shall take into consideration whether
2 the owner, any partner, any manager or member of a limited
3 liability company, or a corporate officer of the applicant is
4 or has been the owner, a partner, a manager or member of a
5 limited liability company, or a corporate officer of another
6 retailer that is in default for moneys due under this Act or
7 any other tax or fee Act administered by the Department; and
8 whether the owner, any partner, any manager or member of a
9 limited liability company, or a corporate officer of the
10 applicant is or has been the owner, a partner, a manager or
11 member of a limited liability company, or a corporate officer
12 of another retailer whose certificate of registration has been
13 revoked within the previous 5 years under this Act or any other
14 tax or fee Act administered by the Department. If a bond or
15 other security is required, the Department shall fix the amount
16 of the bond or other security, taking into consideration the
17 amount of money expected to become due from the applicant under
18 this Act and under any other State tax law or municipal or
19 county tax ordinance or resolution under which the certificate
20 of registration that is issued to the applicant under this Act
21 will permit the applicant to engage in business without
22 registering separately under such other law, ordinance, or
23 resolution. The amount of security required by the Department
24 shall be such as, in its opinion, will protect the State of
25 Illinois against failure to pay the amount which may become due
26 from the applicant under this Act and under any other State tax

1 law or municipal or county tax ordinance or resolution under
2 which the certificate of registration that is issued to the
3 applicant under this Act will permit the applicant to engage in
4 business without registering separately under such other law,
5 ordinance or resolution, but the amount of the security
6 required by the Department shall not exceed three times the
7 amount of the applicant's average monthly tax liability, or
8 \$50,000.00, whichever amount is lower.

9 No certificate of registration under this Act shall be
10 issued by the Department until the applicant provides the
11 Department with satisfactory security, if required, as herein
12 provided for.

13 Upon receipt of the application for certificate of
14 registration in proper form, and upon approval by the
15 Department of the security furnished by the applicant, if
16 required, the Department shall issue to such applicant a
17 certificate of registration which shall permit the person to
18 whom it is issued to engage in the business of selling tangible
19 personal property at retail in this State. The certificate of
20 registration shall be conspicuously displayed at the place of
21 business which the person so registered states in his
22 application to be the principal place of business from which he
23 engages in the business of selling tangible personal property
24 at retail in this State.

25 No certificate of registration issued to a taxpayer who
26 files returns required by this Act on a monthly basis shall be

1 valid after the expiration of 5 years from the date of its
2 issuance or last renewal. The expiration date of a
3 sub-certificate of registration shall be that of the
4 certificate of registration to which the sub-certificate
5 relates. A certificate of registration shall automatically be
6 renewed, subject to revocation as provided by this Act, for an
7 additional 5 years from the date of its expiration unless
8 otherwise notified by the Department as provided by this
9 paragraph. Where a taxpayer to whom a certificate of
10 registration is issued under this Act is in default to the
11 State of Illinois for delinquent returns or for moneys due
12 under this Act or any other State tax law or municipal or
13 county ordinance administered or enforced by the Department,
14 the Department shall, not less than 120 days before the
15 expiration date of such certificate of registration, give
16 notice to the taxpayer to whom the certificate was issued of
17 the account period of the delinquent returns, the amount of
18 tax, penalty and interest due and owing from the taxpayer, and
19 that the certificate of registration shall not be automatically
20 renewed upon its expiration date unless the taxpayer, on or
21 before the date of expiration, has filed and paid the
22 delinquent returns or paid the defaulted amount in full. A
23 taxpayer to whom such a notice is issued shall be deemed an
24 applicant for renewal. The Department shall promulgate
25 regulations establishing procedures for taxpayers who file
26 returns on a monthly basis but desire and qualify to change to

1 a quarterly or yearly filing basis and will no longer be
2 subject to renewal under this Section, and for taxpayers who
3 file returns on a yearly or quarterly basis but who desire or
4 are required to change to a monthly filing basis and will be
5 subject to renewal under this Section.

6 The Department may in its discretion approve renewal by an
7 applicant who is in default if, at the time of application for
8 renewal, the applicant files all of the delinquent returns or
9 pays to the Department such percentage of the defaulted amount
10 as may be determined by the Department and agrees in writing to
11 waive all limitations upon the Department for collection of the
12 remaining defaulted amount to the Department over a period not
13 to exceed 5 years from the date of renewal of the certificate;
14 however, no renewal application submitted by an applicant who
15 is in default shall be approved if the immediately preceding
16 renewal by the applicant was conditioned upon the installment
17 payment agreement described in this Section. The payment
18 agreement herein provided for shall be in addition to and not
19 in lieu of the security that may be required by this Section of
20 a taxpayer who is no longer considered a prior continuous
21 compliance taxpayer. The execution of the payment agreement as
22 provided in this Act shall not toll the accrual of interest at
23 the statutory rate.

24 The Department may suspend a certificate of registration if
25 the Department finds that the person to whom the certificate of
26 registration has been issued knowingly sold contraband

1 cigarettes.

2 A certificate of registration issued under this Act more
3 than 5 years before the effective date of this amendatory Act
4 of 1989 shall expire and be subject to the renewal provisions
5 of this Section on the next anniversary of the date of issuance
6 of such certificate which occurs more than 6 months after the
7 effective date of this amendatory Act of 1989. A certificate of
8 registration issued less than 5 years before the effective date
9 of this amendatory Act of 1989 shall expire and be subject to
10 the renewal provisions of this Section on the 5th anniversary
11 of the issuance of the certificate.

12 If the person so registered states that he operates other
13 places of business from which he engages in the business of
14 selling tangible personal property at retail in this State, the
15 Department shall furnish him with a sub-certificate of
16 registration for each such place of business, and the applicant
17 shall display the appropriate sub-certificate of registration
18 at each such place of business. All sub-certificates of
19 registration shall bear the same registration number as that
20 appearing upon the certificate of registration to which such
21 sub-certificates relate.

22 If the applicant will sell tangible personal property at
23 retail through vending machines, the Department shall furnish
24 him with a sub-certificate of registration for each such
25 vending machine, and the applicant shall display the
26 appropriate sub-certificate of registration on each such

1 vending machine by attaching the sub-certificate of
2 registration to a conspicuous part of such vending machine. If
3 a person who is registered to sell tangible personal property
4 at retail through vending machines adds an additional vending
5 machine or additional vending machines to the number of vending
6 machines he or she uses in his or her business of selling
7 tangible personal property at retail, he or she shall notify
8 the Department, on a form prescribed by the Department, to
9 request an additional sub-certificate or additional
10 sub-certificates of registration, as applicable. With each
11 such request, the applicant shall report the number of
12 sub-certificates of registration he or she is requesting as
13 well as the total number of vending machines from which he or
14 she makes retail sales.

15 Where the same person engages in 2 or more businesses of
16 selling tangible personal property at retail in this State,
17 which businesses are substantially different in character or
18 engaged in under different trade names or engaged in under
19 other substantially dissimilar circumstances (so that it is
20 more practicable, from an accounting, auditing or bookkeeping
21 standpoint, for such businesses to be separately registered),
22 the Department may require or permit such person (subject to
23 the same requirements concerning the furnishing of security as
24 those that are provided for hereinbefore in this Section as to
25 each application for a certificate of registration) to apply
26 for and obtain a separate certificate of registration for each

1 such business or for any of such businesses, under a single
2 certificate of registration supplemented by related
3 sub-certificates of registration.

4 Any person who is registered under the "Retailers'
5 Occupation Tax Act" as of March 8, 1963, and who, during the
6 3-year period immediately prior to March 8, 1963, or during a
7 continuous 3-year period part of which passed immediately
8 before and the remainder of which passes immediately after
9 March 8, 1963, has been so registered continuously and who is
10 determined by the Department not to have been either delinquent
11 or deficient in the payment of tax liability during that period
12 under this Act or under any other State tax law or municipal or
13 county tax ordinance or resolution under which the certificate
14 of registration that is issued to the registrant under this Act
15 will permit the registrant to engage in business without
16 registering separately under such other law, ordinance or
17 resolution, shall be considered to be a Prior Continuous
18 Compliance taxpayer. Also any taxpayer who has, as verified by
19 the Department, faithfully and continuously complied with the
20 condition of his bond or other security under the provisions of
21 this Act for a period of 3 consecutive years shall be
22 considered to be a Prior Continuous Compliance taxpayer.

23 Every Prior Continuous Compliance taxpayer shall be exempt
24 from all requirements under this Act concerning the furnishing
25 of a bond or other security as a condition precedent to his
26 being authorized to engage in the business of selling tangible

1 personal property at retail in this State. This exemption shall
2 continue for each such taxpayer until such time as he may be
3 determined by the Department to be delinquent in the filing of
4 any returns, or is determined by the Department (either through
5 the Department's issuance of a final assessment which has
6 become final under the Act, or by the taxpayer's filing of a
7 return which admits tax that is not paid to be due) to be
8 delinquent or deficient in the paying of any tax under this Act
9 or under any other State tax law or municipal or county tax
10 ordinance or resolution under which the certificate of
11 registration that is issued to the registrant under this Act
12 will permit the registrant to engage in business without
13 registering separately under such other law, ordinance or
14 resolution, at which time that taxpayer shall become subject to
15 all the financial responsibility requirements of this Act and,
16 as a condition of being allowed to continue to engage in the
17 business of selling tangible personal property at retail, may
18 be required to post bond or other acceptable security with the
19 Department covering liability which such taxpayer may
20 thereafter incur. Any taxpayer who fails to pay an admitted or
21 established liability under this Act may also be required to
22 post bond or other acceptable security with this Department
23 guaranteeing the payment of such admitted or established
24 liability.

25 No certificate of registration shall be issued to any
26 person who is in default to the State of Illinois for moneys

1 due under this Act or under any other State tax law or
2 municipal or county tax ordinance or resolution under which the
3 certificate of registration that is issued to the applicant
4 under this Act will permit the applicant to engage in business
5 without registering separately under such other law, ordinance
6 or resolution.

7 Any person aggrieved by any decision of the Department
8 under this Section may, within 20 days after notice of such
9 decision, protest and request a hearing, whereupon the
10 Department shall give notice to such person of the time and
11 place fixed for such hearing and shall hold a hearing in
12 conformity with the provisions of this Act and then issue its
13 final administrative decision in the matter to such person. In
14 the absence of such a protest within 20 days, the Department's
15 decision shall become final without any further determination
16 being made or notice given.

17 With respect to security other than bonds (upon which the
18 Department may sue in the event of a forfeiture), if the
19 taxpayer fails to pay, when due, any amount whose payment such
20 security guarantees, the Department shall, after such
21 liability is admitted by the taxpayer or established by the
22 Department through the issuance of a final assessment that has
23 become final under the law, convert the security which that
24 taxpayer has furnished into money for the State, after first
25 giving the taxpayer at least 10 days' written notice, by
26 registered or certified mail, to pay the liability or forfeit

1 such security to the Department. If the security consists of
2 stocks or bonds or other securities which are listed on a
3 public exchange, the Department shall sell such securities
4 through such public exchange. If the security consists of an
5 irrevocable bank letter of credit, the Department shall convert
6 the security in the manner provided for in the Uniform
7 Commercial Code. If the security consists of a bank certificate
8 of deposit, the Department shall convert the security into
9 money by demanding and collecting the amount of such bank
10 certificate of deposit from the bank which issued such
11 certificate. If the security consists of a type of stocks or
12 other securities which are not listed on a public exchange, the
13 Department shall sell such security to the highest and best
14 bidder after giving at least 10 days' notice of the date, time
15 and place of the intended sale by publication in the "State
16 Official Newspaper". If the Department realizes more than the
17 amount of such liability from the security, plus the expenses
18 incurred by the Department in converting the security into
19 money, the Department shall pay such excess to the taxpayer who
20 furnished such security, and the balance shall be paid into the
21 State Treasury.

22 The Department shall discharge any surety and shall release
23 and return any security deposited, assigned, pledged or
24 otherwise provided to it by a taxpayer under this Section
25 within 30 days after:

26 (1) such taxpayer becomes a Prior Continuous

1 Compliance taxpayer; or

2 (2) such taxpayer has ceased to collect receipts on
3 which he is required to remit tax to the Department, has
4 filed a final tax return, and has paid to the Department an
5 amount sufficient to discharge his remaining tax
6 liability, as determined by the Department, under this Act
7 and under every other State tax law or municipal or county
8 tax ordinance or resolution under which the certificate of
9 registration issued under this Act permits the registrant
10 to engage in business without registering separately under
11 such other law, ordinance or resolution. The Department
12 shall make a final determination of the taxpayer's
13 outstanding tax liability as expeditiously as possible
14 after his final tax return has been filed; if the
15 Department cannot make such final determination within 45
16 days after receiving the final tax return, within such
17 period it shall so notify the taxpayer, stating its reasons
18 therefor.

19 (Source: P.A. 96-1355, eff. 7-28-10; 97-335, eff. 1-1-12.)

20 Section 95. No acceleration or delay. Where this Act makes
21 changes in a statute that is represented in this Act by text
22 that is not yet or no longer in effect (for example, a Section
23 represented by multiple versions), the use of that text does
24 not accelerate or delay the taking effect of (i) the changes
25 made by this Act or (ii) provisions derived from any other

1 Public Act.