

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, to the extent such item constitutes nonbusiness
18 income, together with any item of deduction directly allocable
19 thereto, shall be allocated by any person other than a resident
20 as provided in this Section.

21 (b) Capital gains and losses. (1) Real property. Capital
22 gains and losses from sales or exchanges of real property are
23 allocable to this State if the property is located in this
24 State.

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

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

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

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

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

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

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

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

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

11 (d) Patent and copyright royalties.

12 (1) Allocation. Patent and copyright royalties are
13 allocable to this State:

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

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

21 (2) Utilization.

22 (A) A patent is utilized in a state to the extent that it
23 is employed in production, fabrication, manufacturing or other
24 processing in the state or to the extent that a patented
25 product is produced in the state. If the basis of receipts from
26 patent royalties does not permit allocation to states or if the

1 accounting procedures do not reflect states of utilization, the
2 patent is utilized in this State if the taxpayer has its
3 commercial domicile in this State.

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

11 (e) Illinois lottery prizes. Prizes awarded under the
12 Illinois Lottery Law ~~"Illinois Lottery Law", approved December~~
13 ~~14, 1973,~~ are allocable to this State. Payments received in
14 taxable years ending on or after December 31, 2012, from the
15 assignment of a prize under Section 13.1 of the Illinois
16 Lottery Law are allocable to this State.

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

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

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

26 (g) Cross references. (1) For allocation of interest and

1 dividends by persons other than residents, see Section
2 301(c)(2).

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

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

6 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

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

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

4 (1) Property factor.

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

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

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

24 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (3) Sales factor.

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

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

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

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

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

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

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

4 (ii) Place of utilization.

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

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

1 states in which the copyright is utilized.

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

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

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

1 receipts of the entire unitary business group.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 "Service address" means:

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

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

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

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

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

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

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

3 (c) Tangible personal property;

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

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

8 (f) Internet access service;

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

19 (h) "Ancillary services"; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (B-8) Gross receipts from winnings under the Illinois
4 Lottery Law from the assignment of a prize under Section
5 13-1 of the Illinois Lottery Law are received in this
6 State. This paragraph (B-8) applies only to taxable years
7 ending on or after December 31, 2012.

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

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

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

18 (C-5) For taxable years ending on or after December 31,
19 2008, sales, other than sales governed by paragraphs (B),
20 (B-1), (B-2), (B-5), ~~and~~ (B-7), and (B-8) are in this State
21 if any of the following criteria are met:

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

25 (ii) Sales from the lease or rental of tangible
26 personal property are in this State if the property is

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

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

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

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

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

1 which the services are received, the sale must be
2 excluded from both the numerator and the denominator of
3 the sales factor. The Department shall adopt rules
4 prescribing where specific types of service are
5 received, including, but not limited to, publishing,
6 and utility service.

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

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

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

7 (b) Insurance companies.

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

23 (2) Reinsurance. If the principal source of premiums
24 written by an insurance company consists of premiums for
25 reinsurance accepted by it, the business income of such
26 company shall be apportioned to this State by multiplying

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

1 unreasonably withheld.

2 (c) Financial organizations.

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

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

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

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

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

25 (E) Any other gross income resulting from the
26 operation as a financial organization within this

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

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

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

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

20 (i) The numerator shall be:

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

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

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

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

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

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

1 disposition of assets, including securities and money
2 market instruments, when derived from transactions and
3 activities in the regular course of the financial
4 organization's trade or business. The following examples
5 are illustrative:

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

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

20 (iii) Interest income, commissions, fees, gains on
21 disposition, and other receipts from consumer loans
22 that are not secured by real or tangible personal
23 property are from sources in this State if the debtor
24 is a resident of this State.

25 (iv) Interest income, commissions, fees, gains on
26 disposition, and other receipts from commercial loans

1 and installment obligations that are not secured by
2 real or tangible personal property are from sources in
3 this State if the proceeds of the loan are to be
4 applied in this State. If it cannot be determined where
5 the funds are to be applied, the income and receipts
6 are from sources in this State if the office of the
7 borrower from which the loan was negotiated in the
8 regular course of business is located in this State. If
9 the location of this office cannot be determined, the
10 income and receipts shall be excluded from the
11 numerator and denominator of the sales factor.

12 (v) Interest income, fees, gains on disposition,
13 service charges, merchant discount income, and other
14 receipts from credit card receivables are from sources
15 in this State if the card charges are regularly billed
16 to a customer in this State.

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

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

26 (viii) Receipts from investment assets and

1 activities and trading assets and activities are
2 included in the receipts factor as follows:

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

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

26 (B) The receipts factor shall include the

1 amount by which interest, dividends, gains and
2 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, exceed amounts paid in lieu of
7 interest, amounts paid in lieu of dividends,
8 and losses from such assets and activities.

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

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

1 assets and activities.

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

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

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

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

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

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

26 (iii) the taxpayer uses such records

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

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

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

10 (4) (Blank).

11 (5) (Blank).

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

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

1 an average of the passenger revenue mile fraction and the
2 freight revenue mile fraction, weighted to reflect the
3 person's

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

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

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

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

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

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

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

25 (4) For taxable years ending on or after December 31,
26 2008, business income derived from furnishing airline

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

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

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

- 1 (1) Separate accounting;
- 2 (2) The exclusion of any one or more factors;
- 3 (3) The inclusion of one or more additional factors
- 4 which will fairly represent the person's business
- 5 activities in this State; or
- 6 (4) The employment of any other method to effectuate an
- 7 equitable allocation and apportionment of the person's
- 8 business income.

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

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

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

18 (2) for tax years ending on or after December 31, 1999
19 and before December 31, 2000, $8 \frac{1}{3}\%$ of the property factor
20 plus $8 \frac{1}{3}\%$ of the payroll factor plus $83 \frac{1}{3}\%$ of the sales
21 factor;

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

24 If, in any tax year ending on or after December 31, 1998 and
25 before December 31, 2000, the denominator of the payroll,
26 property, or sales factor is zero, the apportionment factor

1 computed in paragraph (1) or (2) of this subsection for that
2 year shall be divided by an amount equal to 100% minus the
3 percentage weight given to each factor whose denominator is
4 equal to zero.

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

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

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

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

1 property, payroll, and sales factors as provided in subsection
2 (h) of this Section.

3 (1) Property factor.

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

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

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

23 (2) Payroll factor.

24 (A) The payroll factor is a fraction, the numerator of
25 which is the total amount paid in this State during the
26 taxable year by the person for compensation, and the

1 denominator of which is the total compensation paid
2 everywhere during the taxable year.

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

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

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

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

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

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

1 manner during the taxable year bears to the total
2 number of duty days spent both within and without this
3 State during the taxable year.

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

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

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

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

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

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

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

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

1 spent in this State. All days on the disabled
2 list, however, are considered to be included in
3 total duty days spent both within and without
4 this State.

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

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

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

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

1 team.

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

19 (3) Sales factor.

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

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

26 (i) The property is delivered or shipped to a

1 purchaser, other than the United States government,
2 within this State regardless of the f. o. b. point or
3 other conditions of the sale; or

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

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

22 (i) Gross receipts from the licensing, sale, or
23 other disposition of a patent, copyright, trademark,
24 or similar item of intangible personal property, other
25 than gross receipts governed by paragraph (B-7) of this
26 item (3), are in this State to the extent the item is

1 utilized in this State during the year the gross
2 receipts are included in gross income.

3 (ii) Place of utilization.

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

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

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

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

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

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

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

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

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

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

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

26 "Conference bridging service" means an "ancillary

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

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

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

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

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

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

24 "Place of primary use" means the street address
25 representative of where the customer's use of the
26 telecommunications service primarily occurs, which

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

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

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

26 "Prepaid Mobile telecommunication service" means a

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

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

17 "Service address" means:

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

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

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

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

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

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

26 (b) Installation or maintenance of wiring or

1 equipment on a customer's premises;

2 (c) Tangible personal property;

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

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

7 (f) Internet access service;

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

18 (h) "Ancillary services"; or

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

23 "Vertical service" means an "ancillary service"
24 that is offered in connection with one or more
25 "telecommunications services", which offers advanced
26 calling features that allow customers to identify

1 callers and to manage multiple calls and call
2 connections, including "conference bridging services".

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

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

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

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

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

26 (iv) Receipts from the sale of prepaid

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

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

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

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

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

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

1 dividing the number of customer channel
2 termination points in this State by the total
3 number of customer channel termination points.

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

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

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

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

25 (c) 100% of the receipts from interstate end
26 user access line charges, if the customer's

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

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

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

22 "Advertising revenue" means consideration received
23 by the taxpayer in exchange for broadcasting services
24 or allowing the broadcasting of commercials or
25 announcements in connection with the broadcasting of
26 film or radio programming, from sponsorships of the

1 programming, or from product placements in the
2 programming.

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

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

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

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

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

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

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

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

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

1 that broadcast.

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

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

1 broadcasting service in Illinois.

2 (B-8) Gross receipts from winnings under the Illinois
3 Lottery Law from the assignment of a prize under Section
4 13-1 of the Illinois Lottery Law are received in this
5 State. This paragraph (B-8) applies only to taxable years
6 ending on or after December 31, 2012.

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

10 (i) The income-producing activity is performed in
11 this State; or

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

17 (C-5) For taxable years ending on or after December 31,
18 2008, sales, other than sales governed by paragraphs (B),
19 (B-1), (B-2), (B-5), ~~and~~ (B-7), and (B-8) are in this State
20 if any of the following criteria are met:

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

24 (ii) Sales from the lease or rental of tangible
25 personal property are in this State if the property is
26 located in this State during the rental period. Sales

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

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

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

26 (b) in all other cases, if the

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

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

1 excluded from both the numerator and the denominator of
2 the sales factor. The Department shall adopt rules
3 prescribing where specific types of service are
4 received, including, but not limited to, publishing,
5 and utility service.

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

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

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

6 (b) Insurance companies.

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

22 (2) Reinsurance. If the principal source of premiums
23 written by an insurance company consists of premiums for
24 reinsurance accepted by it, the business income of such
25 company shall be apportioned to this State by multiplying
26 such income by a fraction, the numerator of which is the

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

1 (c) Financial organizations.

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

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

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

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

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

24 (E) Any other gross income resulting from the
25 operation as a financial organization within this
26 State. In computing the amounts referred to in

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

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

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

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

19 (i) The numerator shall be:

20 The average aggregate, determined on a
21 quarterly basis, of the financial organization's
22 loans to banks in foreign countries, to foreign
23 domiciled borrowers (except where secured
24 primarily by real estate) and to foreign
25 governments and other foreign official
26 institutions, as reported for its branches,

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

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

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

26 (C) Change to Consolidated Report of Condition and

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

17 (3) For taxable years ending on or after December 31,
18 2008, the business income of a financial organization shall
19 be apportioned to this State by multiplying such income by
20 a fraction, the numerator of which is its gross receipts
21 from sources in this State or otherwise attributable to
22 this State's marketplace and the denominator of which is
23 its gross receipts everywhere during the taxable year.
24 "Gross receipts" for purposes of this subparagraph (3)
25 means gross income, including net taxable gain on
26 disposition of assets, including securities and money

1 market instruments, when derived from transactions and
2 activities in the regular course of the financial
3 organization's trade or business. The following examples
4 are illustrative:

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

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

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

24 (iv) Interest income, commissions, fees, gains on
25 disposition, and other receipts from commercial loans
26 and installment obligations that are not secured by

1 real or tangible personal property are from sources in
2 this State if the proceeds of the loan are to be
3 applied in this State. If it cannot be determined where
4 the funds are to be applied, the income and receipts
5 are from sources in this State if the office of the
6 borrower from which the loan was negotiated in the
7 regular course of business is located in this State. If
8 the location of this office cannot be determined, the
9 income and receipts shall be excluded from the
10 numerator and denominator of the sales factor.

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

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

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

25 (viii) Receipts from investment assets and
26 activities and trading assets and activities are

1 included in the receipts factor as follows:

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

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

25 (B) The receipts factor shall include the
26 amount by which interest, dividends, gains and

1 other income from trading assets and
2 activities, including but not limited to
3 assets and activities in the matched book, in
4 the arbitrage book, and foreign currency
5 transactions, exceed amounts paid in lieu of
6 interest, amounts paid in lieu of dividends,
7 and losses from such assets and activities.

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

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

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

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

1 the numerator of which is the gross income from
2 such trading assets and activities which are
3 properly assigned to a fixed place of business
4 of the taxpayer within this State and the
5 denominator of which is the gross income from
6 all such assets and activities.

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

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

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

25 (iii) the taxpayer uses such records
26 reflecting assignment of such assets or

1 activities for the filing of all state and
2 local tax returns for which an assignment
3 of such assets or activities to a fixed
4 place of business is required.

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

1 commercial domicile is in the state of the
2 United States or the District of Columbia to
3 which the greatest number of employees are
4 regularly connected with the management of the
5 investment or trading income or out of which
6 they are working, irrespective of where the
7 services of such employees are performed, as of
8 the last day of the taxable year.

9 (4) (Blank).

10 (5) (Blank).

11 (c-1) Federally regulated exchanges. For taxable years
12 ending on or after December 31, 2012, business income of a
13 federally regulated exchange shall, at the option of the
14 federally regulated exchange, be apportioned to this State by
15 multiplying such income by a fraction, the numerator of which
16 is its business income from sources within this State, and the
17 denominator of which is its business income from all sources.
18 For purposes of this subsection, the business income within
19 this State of a federally regulated exchange is the sum of the
20 following:

21 (1) Receipts attributable to transactions executed on
22 a physical trading floor if that physical trading floor is
23 located in this State.

24 (2) Receipts attributable to all other matching,
25 execution, or clearing transactions, including without
26 limitation receipts from the provision of matching,

1 execution, or clearing services to another entity,
2 multiplied by (i) for taxable years ending on or after
3 December 31, 2012 but before December 31, 2013, 63.77%; and
4 (ii) for taxable years ending on or after December 31,
5 2013, 27.54%.

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

10 "Federally regulated exchange" means (i) a "registered
11 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),
12 or (C), (ii) an "exchange" or "clearing agency" within the
13 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such
14 entities regulated under any successor regulatory structure to
15 the foregoing, and (iv) all taxpayers who are members of the
16 same unitary business group as a federally regulated exchange,
17 determined without regard to the prohibition in Section
18 1501(a) (27) of this Act against including in a unitary business
19 group taxpayers who are ordinarily required to apportion
20 business income under different subsections of this Section;
21 provided that this subparagraph (iv) shall apply only if 50% or
22 more of the business receipts of the unitary business group
23 determined by application of this subparagraph (iv) for the
24 taxable year are attributable to the matching, execution, or
25 clearing of transactions conducted by an entity described in
26 subparagraph (i), (ii), or (iii) of this paragraph.

1 In no event shall the Illinois apportionment percentage
2 computed in accordance with this subsection (c-1) for any
3 taxpayer for any tax year be less than the Illinois
4 apportionment percentage computed under this subsection (c-1)
5 for that taxpayer for the first full tax year ending on or
6 after December 31, 2013 for which this subsection (c-1) applied
7 to the taxpayer.

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

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

26 (A) relative railway operating income from total

1 passenger and total freight service, as reported to the
2 Interstate Commerce Commission, in the case of
3 transportation by railroad, and

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

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

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

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

14 (A) relative railway operating income from total
15 passenger and total freight service, as reported to the
16 Surface Transportation Board, 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 (4) For taxable years ending on or after December 31,
22 2008, business income derived from furnishing airline
23 transportation services shall be apportioned to this State
24 by multiplying such income by a fraction, the numerator of
25 which is the revenue miles of the person in this State, and
26 the denominator of which is the revenue miles of the person

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

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

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

23 (1) Separate accounting;

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

25 (3) The inclusion of one or more additional factors
26 which will fairly represent the person's business

1 activities in this State; or

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

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

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

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

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

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

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

1 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11;
2 97-636, eff. 6-1-12.)

3 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

4 Sec. 701. Requirement and Amount of Withholding.

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

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

10 (2) payments described in subsection (b) shall deduct
11 and withhold from such compensation for each payroll period
12 (as defined in Section 3401 of the Internal Revenue Code)
13 an amount equal to the amount by which such individual's
14 compensation exceeds the proportionate part of this
15 withholding exemption (computed as provided in Section
16 702) attributable to the payroll period for which such
17 compensation is payable multiplied by a percentage equal to
18 the percentage tax rate for individuals provided in
19 subsection (b) of Section 201.

20 (b) Payment to Residents. Any payment (including
21 compensation, but not including a payment from which
22 withholding is required under Section 710 of this Act) to a
23 resident by a payor maintaining an office or transacting
24 business within this State (including any agency, officer, or
25 employee of this State or of any political subdivision of this

1 State) and on which withholding of tax is required under the
2 provisions of the Internal Revenue Code shall be deemed to be
3 compensation paid in this State by an employer to an employee
4 for the purposes of Article 7 and Section 601(b)(1) to the
5 extent such payment is included in the recipient's base income
6 and not subjected to withholding by another state.
7 Notwithstanding any other provision to the contrary, no amount
8 shall be withheld from unemployment insurance benefit payments
9 made to an individual pursuant to the Unemployment Insurance
10 Act unless the individual has voluntarily elected the
11 withholding pursuant to rules promulgated by the Director of
12 Employment Security.

13 (c) Special Definitions. Withholding shall be considered
14 required under the provisions of the Internal Revenue Code to
15 the extent the Internal Revenue Code either requires
16 withholding or allows for voluntary withholding the payor and
17 recipient have entered into such a voluntary withholding
18 agreement. For the purposes of Article 7 and Section 1002(c)
19 the term "employer" includes any payor who is required to
20 withhold tax pursuant to this Section.

21 (d) Reciprocal Exemption. The Director may enter into an
22 agreement with the taxing authorities of any state which
23 imposes a tax on or measured by income to provide that
24 compensation paid in such state to residents of this State
25 shall be exempt from withholding of such tax; in such case, any
26 compensation paid in this State to residents of such state

1 shall be exempt from withholding. All reciprocal agreements
2 shall be subject to the requirements of Section 2505-575 of the
3 Department of Revenue Law (20 ILCS 2505/2505-575).

4 (e) Notwithstanding subsection (a)(2) of this Section, no
5 withholding is required on payments for which withholding is
6 required under Section 3405 or 3406 of the Internal Revenue
7 Code.

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

9 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

10 Sec. 710. Withholding from lottery winnings. (a) In
11 General.

12 (1) Any person making a payment to a resident or
13 nonresident of winnings under the Illinois Lottery Law and
14 not required to withhold Illinois income tax from such
15 payment under Subsection (b) of Section 701 of this Act
16 because those winnings are not subject to Federal income
17 tax withholding, must withhold Illinois income tax from
18 such payment at a rate equal to the percentage tax rate for
19 individuals provided in subsection (b) of Section 201,
20 provided that withholding is not required if such payment
21 of winnings is less than \$1,000.

22 (2) In the case of an assignment of a lottery prize
23 under Section 13.1 of the Illinois Lottery Law, any person
24 making a payment of the purchase price after December 31,
25 2012, shall withhold from the amount of each payment at a

1 rate equal to the percentage tax rate for individuals
2 provided in subsection (b) of Section 201.

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

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

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

10 Sec. 905. Limitations on Notices of Deficiency.

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

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

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

17 (b) Substantial omission of items.

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

1 statement attached to the return, in a manner adequate to
2 apprise the Department of the nature and the amount of such
3 item.

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

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

20 (c) No return or fraudulent return. If no return is filed
21 or a false and fraudulent return is filed with intent to evade
22 the tax imposed by this Act, a notice of deficiency may be
23 issued at any time. For purposes of this subsection (c), any
24 taxpayer who is required to join in the filing of a return
25 filed under the provisions of subsection (e) of Section 502 of
26 this Act for a taxable year ending on or after December 31,

1 2012 and who is not included on that return and does not file
2 its own return for that taxable year shall be deemed to have
3 failed to file a return; provided that the amount of any
4 proposed assessment set forth in a notice of deficiency issued
5 under this subsection (c) shall be limited to the amount of any
6 increase in liability under this Act that should have reported
7 on the return required under the provisions of subsection (e)
8 of Section 502 of this Act for that taxable year resulting from
9 proper inclusion of that taxpayer on that return.

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

1 reported.

2 (e) Report of federal change.

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

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

1 giving effect to the item or items reflected in the
2 reported alteration.

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

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

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

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

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

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

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

8 (1) (A) such written request notifies the Department
9 that the corporation contemplates dissolution at or before
10 the expiration of such 18-month period, (B) the dissolution
11 is begun in good faith before the expiration of such
12 18-month period, and (C) the dissolution is completed;

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

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

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

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

1 the due date of the reports with respect to which the penalties
2 are asserted.

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

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

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

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

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

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

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

22 Section 20. The Use Tax Act is amended by changing Section
23 9 as follows:

24 (35 ILCS 105/9) (from Ch. 120, par. 439.9)

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

24 Where such tangible personal property is sold under a
25 conditional sales contract, or under any other form of sale
26 wherein the payment of the principal sum, or a part thereof, is

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

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

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

20 1. The name of the seller;

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

24 3. The total amount of taxable receipts received by him
25 during the preceding calendar month from sales of tangible
26 personal property by him during such preceding calendar

1 month, including receipts from charge and time sales, but
2 less all deductions allowed by law;

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

5 5. The amount of tax due;

6 5-5. The signature of the taxpayer; and

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

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

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

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

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

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

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

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

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

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

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

1 will fall below the \$20,000 threshold stated above, then such
2 taxpayer may petition the Department for a change in such
3 taxpayer's reporting status. The Department shall change such
4 taxpayer's reporting status unless it finds that such change is
5 seasonal in nature and not likely to be long term. If any such
6 quarter monthly payment is not paid at the time or in the
7 amount required by this Section, then the taxpayer shall be
8 liable for penalties and interest on the difference between the
9 minimum amount due and the amount of such quarter monthly
10 payment actually and timely paid, except insofar as the
11 taxpayer has previously made payments for that month to the
12 Department in excess of the minimum payments previously due as
13 provided in this Section. The Department shall make reasonable
14 rules and regulations to govern the quarter monthly payment
15 amount and quarter monthly payment dates for taxpayers who file
16 on other than a calendar monthly basis.

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

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

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

1 for October, November and December of a given year being due by
2 January 20 of the following year.

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

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

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

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

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

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

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

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

1 Such transaction reporting return shall be filed not later
2 than 20 days after the date of delivery of the item that is
3 being sold, but may be filed by the retailer at any time sooner
4 than that if he chooses to do so. The transaction reporting
5 return and tax remittance or proof of exemption from the tax
6 that is imposed by this Act may be transmitted to the
7 Department by way of the State agency with which, or State
8 officer with whom, the tangible personal property must be
9 titled or registered (if titling or registration is required)
10 if the Department and such agency or State officer determine
11 that this procedure will expedite the processing of
12 applications for title or registration.

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

26 No retailer's failure or refusal to remit tax under this

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

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

26 Where a retailer collects the tax with respect to the

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

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

24 If experience indicates such action to be practicable, the
25 Department may prescribe and furnish a combination or joint
26 return which will enable retailers, who are required to file

1 returns hereunder and also under the Retailers' Occupation Tax
2 Act, to furnish all the return information required by both
3 Acts on the one form.

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

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

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

26 Beginning January 1, 1990, each month the Department shall

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

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

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

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

1 candy, grooming and hygiene products, and soft drinks that had
2 been taxed at a rate of 1% prior to September 1, 2009 but that
3 is now taxed at 6.25%.

4 Beginning July 1, 2011, each month the Department shall pay
5 into the Clean Air Act (CAA) Permit Fund 80% of the net revenue
6 realized for the preceding month from the 6.25% general rate on
7 the selling price of sorbents used in Illinois in the process
8 of sorbent injection as used to comply with the Environmental
9 Protection Act or the federal Clean Air Act, but the total
10 payment into the Clean Air Act (CAA) Permit Fund under this Act
11 and the Retailers' Occupation Tax Act shall not exceed
12 \$2,000,000 in any fiscal year.

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

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

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

26 Subject to payment of amounts into the Build Illinois Fund

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

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

1	2007	119,000,000
2	2008	126,000,000
3	2009	132,000,000
4	2010	139,000,000
5	2011	146,000,000
6	2012	153,000,000
7	2013	161,000,000
8	2014	170,000,000
9	2015	179,000,000
10	2016	189,000,000
11	2017	199,000,000
12	2018	210,000,000
13	2019	221,000,000
14	2020	233,000,000
15	2021	246,000,000
16	2022	260,000,000
17	2023	275,000,000
18	2024	275,000,000
19	2025	275,000,000
20	2026	279,000,000
21	2027	292,000,000
22	2028	307,000,000
23	2029	322,000,000
24	2030	338,000,000
25	2031	350,000,000
26	2032	350,000,000

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

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

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

1 the net revenue realized for the preceding month from the 6.25%
2 general rate on the selling price of tangible personal
3 property.

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

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

23 As soon as possible after the first day of each month, upon
24 certification of the Department of Revenue, the Comptroller
25 shall order transferred and the Treasurer shall transfer from
26 the General Revenue Fund to the Motor Fuel Tax Fund an amount

1 equal to 1.7% of 80% of the net revenue realized under this Act
2 for the second preceding month. Beginning April 1, 2000, this
3 transfer is no longer required and shall not be made.

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

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

15 (Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,
16 eff. 5-27-10; 96-1012, eff. 7-7-10; 97-95, eff. 7-12-11;
17 97-333, eff. 8-12-11.)

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

20 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

21 Sec. 2a. It is unlawful for any person to engage in the
22 business of selling tangible personal property at retail in
23 this State without a certificate of registration from the
24 Department. Application for a certificate of registration

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

1 she uses in his or her business of selling tangible personal
2 property at retail.

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

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

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

1 from the applicant under this Act and under any other State tax
2 law or municipal or county tax ordinance or resolution under
3 which the certificate of registration that is issued to the
4 applicant under this Act will permit the applicant to engage in
5 business without registering separately under such other law,
6 ordinance or resolution, but the amount of the security
7 required by the Department shall not exceed three times the
8 amount of the applicant's average monthly tax liability, or
9 \$50,000.00, whichever amount is lower.

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

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

26 No certificate of registration issued to a taxpayer who

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

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

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

25 The Department may suspend a certificate of registration if
26 the Department finds that the person to whom the certificate of

1 registration has been issued knowingly sold contraband
2 cigarettes.

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

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

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

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

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

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

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

24 Every Prior Continuous Compliance taxpayer shall be exempt
25 from all requirements under this Act concerning the furnishing
26 of a bond or other security as a condition precedent to his

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

26 No certificate of registration shall be issued to any

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

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

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

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

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

1 (1) such taxpayer becomes a Prior Continuous
2 Compliance taxpayer; or

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

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

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

1 made by this Act or (ii) provisions derived from any other
2 Public Act.