



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 405

2 AMENDMENT NO. _____. Amend Senate Bill 405 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 201 and 304 as follows:

6 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

7 Sec. 201. Tax Imposed.

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

15 (b) Rates. The tax imposed by subsection (a) of this
16 Section shall be determined as follows, except as adjusted by

1 subsection (d-1):

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

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

13 (3) In the case of an individual, trust or estate, for
14 taxable years beginning after June 30, 1989, and ending
15 prior to January 1, 2011, an amount equal to 3% of the
16 taxpayer's net income for the taxable year.

17 (4) In the case of an individual, trust, or estate, for
18 taxable years beginning prior to January 1, 2011, and
19 ending after December 31, 2010, an amount equal to the sum
20 of (i) 3% of the taxpayer's net income for the period prior
21 to January 1, 2011, as calculated under Section 202.5, and
22 (ii) 5% of the taxpayer's net income for the period after
23 December 31, 2010, as calculated under Section 202.5.

24 (5) In the case of an individual, trust, or estate, for
25 taxable years beginning on or after January 1, 2011, and
26 ending prior to January 1, 2015, an amount equal to 5% of

1 the taxpayer's net income for the taxable year.

2 (5.1) In the case of an individual, trust, or estate,
3 for taxable years beginning prior to January 1, 2015, and
4 ending after December 31, 2014, an amount equal to the sum
5 of (i) 5% of the taxpayer's net income for the period prior
6 to January 1, 2015, as calculated under Section 202.5, and
7 (ii) 3.75% of the taxpayer's net income for the period
8 after December 31, 2014, as calculated under Section 202.5.

9 (5.2) In the case of an individual, trust, or estate,
10 for taxable years beginning on or after January 1, 2015,
11 and ending prior to January 1, 2025, an amount equal to
12 3.75% of the taxpayer's net income for the taxable year.

13 (5.3) In the case of an individual, trust, or estate,
14 for taxable years beginning prior to January 1, 2025, and
15 ending after December 31, 2024, an amount equal to the sum
16 of (i) 3.75% of the taxpayer's net income for the period
17 prior to January 1, 2025, as calculated under Section
18 202.5, and (ii) 3.25% of the taxpayer's net income for the
19 period after December 31, 2024, as calculated under Section
20 202.5.

21 (5.4) In the case of an individual, trust, or estate,
22 for taxable years beginning on or after January 1, 2025, an
23 amount equal to 3.25% of the taxpayer's net income for the
24 taxable year.

25 (6) In the case of a corporation, for taxable years
26 ending prior to July 1, 1989, an amount equal to 4% of the

1 taxpayer's net income for the taxable year.

2 (7) In the case of a corporation, for taxable years
3 beginning prior to July 1, 1989 and ending after June 30,
4 1989, an amount equal to the sum of (i) 4% of the
5 taxpayer's net income for the period prior to July 1, 1989,
6 as calculated under Section 202.3, and (ii) 4.8% of the
7 taxpayer's net income for the period after June 30, 1989,
8 as calculated under Section 202.3.

9 (8) In the case of a corporation, for taxable years
10 beginning after June 30, 1989, and ending prior to January
11 1, 2011, an amount equal to 4.8% of the taxpayer's net
12 income for the taxable year.

13 (9) In the case of a corporation, for taxable years
14 beginning prior to January 1, 2011, and ending after
15 December 31, 2010, an amount equal to the sum of (i) 4.8%
16 of the taxpayer's net income for the period prior to
17 January 1, 2011, as calculated under Section 202.5, and
18 (ii) 7% of the taxpayer's net income for the period after
19 December 31, 2010, as calculated under Section 202.5.

20 (10) In the case of a corporation, for taxable years
21 beginning on or after January 1, 2011, and ending prior to
22 January 1, 2015, an amount equal to 7% of the taxpayer's
23 net income for the taxable year.

24 (11) In the case of a corporation, for taxable years
25 beginning prior to January 1, 2015, and ending after
26 December 31, 2014, an amount equal to the sum of (i) 7% of

1 the taxpayer's net income for the period prior to January
2 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
3 of the taxpayer's net income for the period after December
4 31, 2014, as calculated under Section 202.5.

5 (12) In the case of a corporation, for taxable years
6 beginning on or after January 1, 2015, and ending prior to
7 January 1, 2025, an amount equal to 5.25% of the taxpayer's
8 net income for the taxable year.

9 (13) In the case of a corporation, for taxable years
10 beginning prior to January 1, 2025, and ending after
11 December 31, 2024, an amount equal to the sum of (i) 5.25%
12 of the taxpayer's net income for the period prior to
13 January 1, 2025, as calculated under Section 202.5, and
14 (ii) 4.8% of the taxpayer's net income for the period after
15 December 31, 2024, as calculated under Section 202.5.

16 (14) In the case of a corporation, for taxable years
17 beginning on or after January 1, 2025, an amount equal to
18 4.8% of the taxpayer's net income for the taxable year.

19 The rates under this subsection (b) are subject to the
20 provisions of Section 201.5.

21 (c) Personal Property Tax Replacement Income Tax.
22 Beginning on July 1, 1979 and thereafter, in addition to such
23 income tax, there is also hereby imposed the Personal Property
24 Tax Replacement Income Tax measured by net income on every
25 corporation (including Subchapter S corporations), partnership
26 and trust, for each taxable year ending after June 30, 1979.

1 Such taxes are imposed on the privilege of earning or receiving
2 income in or as a resident of this State. The Personal Property
3 Tax Replacement Income Tax shall be in addition to the income
4 tax imposed by subsections (a) and (b) of this Section and in
5 addition to all other occupation or privilege taxes imposed by
6 this State or by any municipal corporation or political
7 subdivision thereof.

8 (d) Additional Personal Property Tax Replacement Income
9 Tax Rates. The personal property tax replacement income tax
10 imposed by this subsection and subsection (c) of this Section
11 in the case of a corporation, other than a Subchapter S
12 corporation and except as adjusted by subsection (d-1), shall
13 be an additional amount equal to 2.85% of such taxpayer's net
14 income for the taxable year, except that beginning on January
15 1, 1981, and thereafter, the rate of 2.85% specified in this
16 subsection shall be reduced to 2.5%, and in the case of a
17 partnership, trust or a Subchapter S corporation shall be an
18 additional amount equal to 1.5% of such taxpayer's net income
19 for the taxable year.

20 (d-1) Rate reduction for certain foreign insurers. In the
21 case of a foreign insurer, as defined by Section 35A-5 of the
22 Illinois Insurance Code, whose state or country of domicile
23 imposes on insurers domiciled in Illinois a retaliatory tax
24 (excluding any insurer whose premiums from reinsurance assumed
25 are 50% or more of its total insurance premiums as determined
26 under paragraph (2) of subsection (b) of Section 304, except

1 that for purposes of this determination premiums from
2 reinsurance do not include premiums from inter-affiliate
3 reinsurance arrangements), beginning with taxable years ending
4 on or after December 31, 1999, the sum of the rates of tax
5 imposed by subsections (b) and (d) shall be reduced (but not
6 increased) to the rate at which the total amount of tax imposed
7 under this Act, net of all credits allowed under this Act,
8 shall equal (i) the total amount of tax that would be imposed
9 on the foreign insurer's net income allocable to Illinois for
10 the taxable year by such foreign insurer's state or country of
11 domicile if that net income were subject to all income taxes
12 and taxes measured by net income imposed by such foreign
13 insurer's state or country of domicile, net of all credits
14 allowed or (ii) a rate of zero if no such tax is imposed on such
15 income by the foreign insurer's state of domicile. For the
16 purposes of this subsection (d-1), an inter-affiliate includes
17 a mutual insurer under common management.

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

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

24 (B) the privilege tax imposed by Section 409 of the
25 Illinois Insurance Code, the fire insurance company
26 tax imposed by Section 12 of the Fire Investigation

1 Act, and the fire department taxes imposed under
2 Section 11-10-1 of the Illinois Municipal Code,
3 equals 1.25% for taxable years ending prior to December 31,
4 2003, or 1.75% for taxable years ending on or after
5 December 31, 2003, of the net taxable premiums written for
6 the taxable year, as described by subsection (1) of Section
7 409 of the Illinois Insurance Code. This paragraph will in
8 no event increase the rates imposed under subsections (b)
9 and (d).

10 (2) Any reduction in the rates of tax imposed by this
11 subsection shall be applied first against the rates imposed
12 by subsection (b) and only after the tax imposed by
13 subsection (a) net of all credits allowed under this
14 Section other than the credit allowed under subsection (i)
15 has been reduced to zero, against the rates imposed by
16 subsection (d).

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

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

22 (1) A taxpayer shall be allowed a credit equal to .5%
23 of the basis of qualified property placed in service during
24 the taxable year, provided such property is placed in
25 service on or after July 1, 1984. There shall be allowed an
26 additional credit equal to .5% of the basis of qualified

1 property placed in service during the taxable year,
2 provided such property is placed in service on or after
3 July 1, 1986, and the taxpayer's base employment within
4 Illinois has increased by 1% or more over the preceding
5 year as determined by the taxpayer's employment records
6 filed with the Illinois Department of Employment Security.
7 Taxpayers who are new to Illinois shall be deemed to have
8 met the 1% growth in base employment for the first year in
9 which they file employment records with the Illinois
10 Department of Employment Security. The provisions added to
11 this Section by Public Act 85-1200 (and restored by Public
12 Act 87-895) shall be construed as declaratory of existing
13 law and not as a new enactment. If, in any year, the
14 increase in base employment within Illinois over the
15 preceding year is less than 1%, the additional credit shall
16 be limited to that percentage times a fraction, the
17 numerator of which is .5% and the denominator of which is
18 1%, but shall not exceed .5%. The investment credit shall
19 not be allowed to the extent that it would reduce a
20 taxpayer's liability in any tax year below zero, nor may
21 any credit for qualified property be allowed for any year
22 other than the year in which the property was placed in
23 service in Illinois. For tax years ending on or after
24 December 31, 1987, and on or before December 31, 1988, the
25 credit shall be allowed for the tax year in which the
26 property is placed in service, or, if the amount of the

1 credit exceeds the tax liability for that year, whether it
2 exceeds the original liability or the liability as later
3 amended, such excess may be carried forward and applied to
4 the tax liability of the 5 taxable years following the
5 excess credit years if the taxpayer (i) makes investments
6 which cause the creation of a minimum of 2,000 full-time
7 equivalent jobs in Illinois, (ii) is located in an
8 enterprise zone established pursuant to the Illinois
9 Enterprise Zone Act and (iii) is certified by the
10 Department of Commerce and Community Affairs (now
11 Department of Commerce and Economic Opportunity) as
12 complying with the requirements specified in clause (i) and
13 (ii) by July 1, 1986. The Department of Commerce and
14 Community Affairs (now Department of Commerce and Economic
15 Opportunity) shall notify the Department of Revenue of all
16 such certifications immediately. For tax years ending
17 after December 31, 1988, the credit shall be allowed for
18 the tax year in which the property is placed in service,
19 or, if the amount of the credit exceeds the tax liability
20 for that year, whether it exceeds the original liability or
21 the liability as later amended, such excess may be carried
22 forward and applied to the tax liability of the 5 taxable
23 years following the excess credit years. The credit shall
24 be applied to the earliest year for which there is a
25 liability. If there is credit from more than one tax year
26 that is available to offset a liability, earlier credit

1 shall be applied first.

2 (2) The term "qualified property" means property
3 which:

4 (A) is tangible, whether new or used, including
5 buildings and structural components of buildings and
6 signs that are real property, but not including land or
7 improvements to real property that are not a structural
8 component of a building such as landscaping, sewer
9 lines, local access roads, fencing, parking lots, and
10 other appurtenances;

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

16 (C) is acquired by purchase as defined in Section
17 179(d) of the Internal Revenue Code;

18 (D) is used in Illinois by a taxpayer who is
19 primarily engaged in manufacturing, or in mining coal
20 or fluorite, or in retailing, or was placed in service
21 on or after July 1, 2006 in a River Edge Redevelopment
22 Zone established pursuant to the River Edge
23 Redevelopment Zone Act; and

24 (E) has not previously been used in Illinois in
25 such a manner and by such a person as would qualify for
26 the credit provided by this subsection (e) or

1 subsection (f).

2 (3) For purposes of this subsection (e),
3 "manufacturing" means the material staging and production
4 of tangible personal property by procedures commonly
5 regarded as manufacturing, processing, fabrication, or
6 assembling which changes some existing material into new
7 shapes, new qualities, or new combinations. For purposes of
8 this subsection (e) the term "mining" shall have the same
9 meaning as the term "mining" in Section 613(c) of the
10 Internal Revenue Code. For purposes of this subsection (e),
11 the term "retailing" means the sale of tangible personal
12 property for use or consumption and not for resale, or
13 services rendered in conjunction with the sale of tangible
14 personal property for use or consumption and not for
15 resale. For purposes of this subsection (e), "tangible
16 personal property" has the same meaning as when that term
17 is used in the Retailers' Occupation Tax Act, and, for
18 taxable years ending after December 31, 2008, does not
19 include the generation, transmission, or distribution of
20 electricity.

21 (4) The basis of qualified property shall be the basis
22 used to compute the depreciation deduction for federal
23 income tax purposes.

24 (5) If the basis of the property for federal income tax
25 depreciation purposes is increased after it has been placed
26 in service in Illinois by the taxpayer, the amount of such

1 increase shall be deemed property placed in service on the
2 date of such increase in basis.

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

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

21 (8) Unless the investment credit is extended by law,
22 the basis of qualified property shall not include costs
23 incurred after December 31, 2013, except for costs incurred
24 pursuant to a binding contract entered into on or before
25 December 31, 2013.

26 (9) Each taxable year ending before December 31, 2000,

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

16 For taxable years ending on or after December 31, 2000,
17 a partner that qualifies its partnership for a subtraction
18 under subparagraph (I) of paragraph (2) of subsection (d)
19 of Section 203 or a shareholder that qualifies a Subchapter
20 S corporation for a subtraction under subparagraph (S) of
21 paragraph (2) of subsection (b) of Section 203 shall be
22 allowed a credit under this subsection (e) equal to its
23 share of the credit earned under this subsection (e) during
24 the taxable year by the partnership or Subchapter S
25 corporation, determined in accordance with the
26 determination of income and distributive share of income

1 under Sections 702 and 704 and Subchapter S of the Internal
2 Revenue Code. This paragraph is exempt from the provisions
3 of Section 250.

4 (f) Investment credit; Enterprise Zone; River Edge
5 Redevelopment Zone.

6 (1) A taxpayer shall be allowed a credit against the
7 tax imposed by subsections (a) and (b) of this Section for
8 investment in qualified property which is placed in service
9 in an Enterprise Zone created pursuant to the Illinois
10 Enterprise Zone Act or, for property placed in service on
11 or after July 1, 2006, a River Edge Redevelopment Zone
12 established pursuant to the River Edge Redevelopment Zone
13 Act. For partners, shareholders of Subchapter S
14 corporations, and owners of limited liability companies,
15 if the liability company is treated as a partnership for
16 purposes of federal and State income taxation, there shall
17 be allowed a credit under this subsection (f) to be
18 determined in accordance with the determination of income
19 and distributive share of income under Sections 702 and 704
20 and Subchapter S of the Internal Revenue Code. The credit
21 shall be .5% of the basis for such property. The credit
22 shall be available only in the taxable year in which the
23 property is placed in service in the Enterprise Zone or
24 River Edge Redevelopment Zone and shall not be allowed to
25 the extent that it would reduce a taxpayer's liability for
26 the tax imposed by subsections (a) and (b) of this Section

1 to below zero. For tax years ending on or after December
2 31, 1985, the credit shall be allowed for the tax year in
3 which the property is placed in service, or, if the amount
4 of the credit exceeds the tax liability for that year,
5 whether it exceeds the original liability or the liability
6 as later amended, such excess may be carried forward and
7 applied to the tax liability of the 5 taxable years
8 following the excess credit year. The credit shall be
9 applied to the earliest year for which there is a
10 liability. If there is credit from more than one tax year
11 that is available to offset a liability, the credit
12 accruing first in time shall be applied first.

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

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

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

21 (C) is acquired by purchase as defined in Section
22 179(d) of the Internal Revenue Code;

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

25 (E) has not been previously used in Illinois in
26 such a manner and by such a person as would qualify for

1 the credit provided by this subsection (f) or
2 subsection (e).

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

6 (4) If the basis of the property for federal income tax
7 depreciation purposes is increased after it has been placed
8 in service in the Enterprise Zone or River Edge
9 Redevelopment Zone by the taxpayer, the amount of such
10 increase shall be deemed property placed in service on the
11 date of such increase in basis.

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

14 (6) If during any taxable year, any property ceases to
15 be qualified property in the hands of the taxpayer within
16 48 months after being placed in service, or the situs of
17 any qualified property is moved outside the Enterprise Zone
18 or River Edge Redevelopment Zone within 48 months after
19 being placed in service, the tax imposed under subsections
20 (a) and (b) of this Section for such taxable year shall be
21 increased. Such increase shall be determined by (i)
22 recomputing the investment credit which would have been
23 allowed for the year in which credit for such property was
24 originally allowed by eliminating such property from such
25 computation, and (ii) subtracting such recomputed credit
26 from the amount of credit previously allowed. For the

1 purposes of this paragraph (6), a reduction of the basis of
2 qualified property resulting from a redetermination of the
3 purchase price shall be deemed a disposition of qualified
4 property to the extent of such reduction.

5 (7) There shall be allowed an additional credit equal
6 to 0.5% of the basis of qualified property placed in
7 service during the taxable year in a River Edge
8 Redevelopment Zone, provided such property is placed in
9 service on or after July 1, 2006, and the taxpayer's base
10 employment within Illinois has increased by 1% or more over
11 the preceding year as determined by the taxpayer's
12 employment records filed with the Illinois Department of
13 Employment Security. Taxpayers who are new to Illinois
14 shall be deemed to have met the 1% growth in base
15 employment for the first year in which they file employment
16 records with the Illinois Department of Employment
17 Security. If, in any year, the increase in base employment
18 within Illinois over the preceding year is less than 1%,
19 the additional credit shall be limited to that percentage
20 times a fraction, the numerator of which is 0.5% and the
21 denominator of which is 1%, but shall not exceed 0.5%.

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

24 (1) A taxpayer conducting a trade or business in an
25 enterprise zone or a High Impact Business designated by the
26 Department of Commerce and Economic Opportunity or for

1 taxable years ending on or after December 31, 2006, in a
2 River Edge Redevelopment Zone conducting a trade or
3 business in a federally designated Foreign Trade Zone or
4 Sub-Zone shall be allowed a credit against the tax imposed
5 by subsections (a) and (b) of this Section in the amount of
6 \$500 per eligible employee hired to work in the zone during
7 the taxable year.

8 (2) To qualify for the credit:

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

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

22 (C) the eligible employees must be employed 180
23 consecutive days in order to be deemed hired for
24 purposes of this subsection.

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

26 (A) Certified by the Department of Commerce and

1 Economic Opportunity as "eligible for services"
2 pursuant to regulations promulgated in accordance with
3 Title II of the Job Training Partnership Act, Training
4 Services for the Disadvantaged or Title III of the Job
5 Training Partnership Act, Employment and Training
6 Assistance for Dislocated Workers Program.

7 (B) Hired after the enterprise zone, River Edge
8 Redevelopment Zone, or federally designated Foreign
9 Trade Zone or Sub-Zone was designated or the trade or
10 business was located in that zone, whichever is later.

11 (C) Employed in the enterprise zone, River Edge
12 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
13 An employee is employed in an enterprise zone or
14 federally designated Foreign Trade Zone or Sub-Zone if
15 his services are rendered there or it is the base of
16 operations for the services performed.

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

19 (4) For tax years ending on or after December 31, 1985
20 and prior to December 31, 1988, the credit shall be allowed
21 for the tax year in which the eligible employees are hired.
22 For tax years ending on or after December 31, 1988, the
23 credit shall be allowed for the tax year immediately
24 following the tax year in which the eligible employees are
25 hired. If the amount of the credit exceeds the tax
26 liability for that year, whether it exceeds the original

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

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

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

13 (h) Investment credit; High Impact Business.

14 (1) Subject to subsections (b) and (b-5) of Section 5.5
15 of the Illinois Enterprise Zone Act, a taxpayer shall be
16 allowed a credit against the tax imposed by subsections (a)
17 and (b) of this Section for investment in qualified
18 property which is placed in service by a Department of
19 Commerce and Economic Opportunity designated High Impact
20 Business. The credit shall be .5% of the basis for such
21 property. The credit shall not be available (i) until the
22 minimum investments in qualified property set forth in
23 subdivision (a)(3)(A) of Section 5.5 of the Illinois
24 Enterprise Zone Act have been satisfied or (ii) until the
25 time authorized in subsection (b-5) of the Illinois
26 Enterprise Zone Act for entities designated as High Impact

1 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
2 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
3 Act, and shall not be allowed to the extent that it would
4 reduce a taxpayer's liability for the tax imposed by
5 subsections (a) and (b) of this Section to below zero. The
6 credit applicable to such investments shall be taken in the
7 taxable year in which such investments have been completed.
8 The credit for additional investments beyond the minimum
9 investment by a designated high impact business authorized
10 under subdivision (a)(3)(A) of Section 5.5 of the Illinois
11 Enterprise Zone Act shall be available only in the taxable
12 year in which the property is placed in service and shall
13 not be allowed to the extent that it would reduce a
14 taxpayer's liability for the tax imposed by subsections (a)
15 and (b) of this Section to below zero. For tax years ending
16 on or after December 31, 1987, the credit shall be allowed
17 for the tax year in which the property is placed in
18 service, or, if the amount of the credit exceeds the tax
19 liability for that year, whether it exceeds the original
20 liability or the liability as later amended, such excess
21 may be carried forward and applied to the tax liability of
22 the 5 taxable years following the excess credit year. The
23 credit shall be applied to the earliest year for which
24 there is a liability. If there is credit from more than one
25 tax year that is available to offset a liability, the
26 credit accruing first in time shall be applied first.

1 Changes made in this subdivision (h) (1) by Public Act
2 88-670 restore changes made by Public Act 85-1182 and
3 reflect existing law.

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

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

7 (B) is depreciable pursuant to Section 167 of the
8 Internal Revenue Code, except that "3-year property"
9 as defined in Section 168(c) (2) (A) of that Code is not
10 eligible for the credit provided by this subsection
11 (h);

12 (C) is acquired by purchase as defined in Section
13 179(d) of the Internal Revenue Code; and

14 (D) is not eligible for the Enterprise Zone
15 Investment Credit provided by subsection (f) of this
16 Section.

17 (3) The basis of qualified property shall be the basis
18 used to compute the depreciation deduction for federal
19 income tax purposes.

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

26 (5) The term "placed in service" shall have the same

1 meaning as under Section 46 of the Internal Revenue Code.

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

20 (7) Beginning with tax years ending after December 31,
21 1996, if a taxpayer qualifies for the credit under this
22 subsection (h) and thereby is granted a tax abatement and
23 the taxpayer relocates its entire facility in violation of
24 the explicit terms and length of the contract under Section
25 18-183 of the Property Tax Code, the tax imposed under
26 subsections (a) and (b) of this Section shall be increased

1 for the taxable year in which the taxpayer relocated its
2 facility by an amount equal to the amount of credit
3 received by the taxpayer under this subsection (h).

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

14 Any credit earned on or after December 31, 1986 under this
15 subsection which is unused in the year the credit is computed
16 because it exceeds the tax liability imposed by subsections (a)
17 and (b) for that year (whether it exceeds the original
18 liability or the liability as later amended) may be carried
19 forward and applied to the tax liability imposed by subsections
20 (a) and (b) of the 5 taxable years following the excess credit
21 year, provided that no credit may be carried forward to any
22 year ending on or after December 31, 2003. This credit shall be
23 applied first to the earliest year for which there is a
24 liability. If there is a credit under this subsection from more
25 than one tax year that is available to offset a liability the
26 earliest credit arising under this subsection shall be applied

1 first.

2 If, during any taxable year ending on or after December 31,
3 1986, the tax imposed by subsections (c) and (d) of this
4 Section for which a taxpayer has claimed a credit under this
5 subsection (i) is reduced, the amount of credit for such tax
6 shall also be reduced. Such reduction shall be determined by
7 recomputing the credit to take into account the reduced tax
8 imposed by subsections (c) and (d). If any portion of the
9 reduced amount of credit has been carried to a different
10 taxable year, an amended return shall be filed for such taxable
11 year to reduce the amount of credit claimed.

12 (j) Training expense credit. Beginning with tax years
13 ending on or after December 31, 1986 and prior to December 31,
14 2003, a taxpayer shall be allowed a credit against the tax
15 imposed by subsections (a) and (b) under this Section for all
16 amounts paid or accrued, on behalf of all persons employed by
17 the taxpayer in Illinois or Illinois residents employed outside
18 of Illinois by a taxpayer, for educational or vocational
19 training in semi-technical or technical fields or semi-skilled
20 or skilled fields, which were deducted from gross income in the
21 computation of taxable income. The credit against the tax
22 imposed by subsections (a) and (b) shall be 1.6% of such
23 training expenses. For partners, shareholders of subchapter S
24 corporations, and owners of limited liability companies, if the
25 liability company is treated as a partnership for purposes of
26 federal and State income taxation, there shall be allowed a

1 credit under this subsection (j) to be determined in accordance
2 with the determination of income and distributive share of
3 income under Sections 702 and 704 and subchapter S of the
4 Internal Revenue Code.

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

15 (k) Research and development credit.

16 For tax years ending after July 1, 1990 and prior to
17 December 31, 2003, and beginning again for tax years ending on
18 or after December 31, 2004, and ending prior to January 1, 2016
19 ~~January 1, 2011~~, a taxpayer shall be allowed a credit against
20 the tax imposed by subsections (a) and (b) of this Section for
21 increasing research activities in this State. The credit
22 allowed against the tax imposed by subsections (a) and (b)
23 shall be equal to 6 1/2% of the qualifying expenditures for
24 increasing research activities in this State. For partners,
25 shareholders of subchapter S corporations, and owners of
26 limited liability companies, if the liability company is

1 treated as a partnership for purposes of federal and State
2 income taxation, there shall be allowed a credit under this
3 subsection to be determined in accordance with the
4 determination of income and distributive share of income under
5 Sections 702 and 704 and subchapter S of the Internal Revenue
6 Code.

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

20 Any credit in excess of the tax liability for the taxable
21 year may be carried forward. A taxpayer may elect to have the
22 unused credit shown on its final completed return carried over
23 as a credit against the tax liability for the following 5
24 taxable years or until it has been fully used, whichever occurs
25 first; provided that no credit earned in a tax year ending
26 prior to December 31, 2003 may be carried forward to any year

1 ending on or after December 31, 2003, and no credit may be
2 carried forward to any taxable year ending on or after January
3 1, 2016 ~~January 1, 2011~~.

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

16 No inference shall be drawn from this amendatory Act of the
17 91st General Assembly in construing this Section for taxable
18 years beginning before January 1, 1999.

19 (1) Environmental Remediation Tax Credit.

20 (i) For tax years ending after December 31, 1997 and on
21 or before December 31, 2001, a taxpayer shall be allowed a
22 credit against the tax imposed by subsections (a) and (b)
23 of this Section for certain amounts paid for unreimbursed
24 eligible remediation costs, as specified in this
25 subsection. For purposes of this Section, "unreimbursed
26 eligible remediation costs" means costs approved by the

1 Illinois Environmental Protection Agency ("Agency") under
2 Section 58.14 of the Environmental Protection Act that were
3 paid in performing environmental remediation at a site for
4 which a No Further Remediation Letter was issued by the
5 Agency and recorded under Section 58.10 of the
6 Environmental Protection Act. The credit must be claimed
7 for the taxable year in which Agency approval of the
8 eligible remediation costs is granted. The credit is not
9 available to any taxpayer if the taxpayer or any related
10 party caused or contributed to, in any material respect, a
11 release of regulated substances on, in, or under the site
12 that was identified and addressed by the remedial action
13 pursuant to the Site Remediation Program of the
14 Environmental Protection Act. After the Pollution Control
15 Board rules are adopted pursuant to the Illinois
16 Administrative Procedure Act for the administration and
17 enforcement of Section 58.9 of the Environmental
18 Protection Act, determinations as to credit availability
19 for purposes of this Section shall be made consistent with
20 those rules. For purposes of this Section, "taxpayer"
21 includes a person whose tax attributes the taxpayer has
22 succeeded to under Section 381 of the Internal Revenue Code
23 and "related party" includes the persons disallowed a
24 deduction for losses by paragraphs (b), (c), and (f)(1) of
25 Section 267 of the Internal Revenue Code by virtue of being
26 a related taxpayer, as well as any of its partners. The

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

15 (ii) A credit allowed under this subsection that is
16 unused in the year the credit is earned may be carried
17 forward to each of the 5 taxable years following the year
18 for which the credit is first earned until it is used. The
19 term "unused credit" does not include any amounts of
20 unreimbursed eligible remediation costs in excess of the
21 maximum credit per site authorized under paragraph (i).
22 This credit shall be applied first to the earliest year for
23 which there is a liability. If there is a credit under this
24 subsection from more than one tax year that is available to
25 offset a liability, the earliest credit arising under this
26 subsection shall be applied first. A credit allowed under

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

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

17 (m) Education expense credit. Beginning with tax years
18 ending after December 31, 1999, a taxpayer who is the custodian
19 of one or more qualifying pupils shall be allowed a credit
20 against the tax imposed by subsections (a) and (b) of this
21 Section for qualified education expenses incurred on behalf of
22 the qualifying pupils. The credit shall be equal to 25% of
23 qualified education expenses, but in no event may the total
24 credit under this subsection claimed by a family that is the
25 custodian of qualifying pupils exceed \$500. In no event shall a
26 credit under this subsection reduce the taxpayer's liability

1 under this Act to less than zero. This subsection is exempt
2 from the provisions of Section 250 of this Act.

3 For purposes of this subsection:

4 "Qualifying pupils" means individuals who (i) are
5 residents of the State of Illinois, (ii) are under the age of
6 21 at the close of the school year for which a credit is
7 sought, and (iii) during the school year for which a credit is
8 sought were full-time pupils enrolled in a kindergarten through
9 twelfth grade education program at any school, as defined in
10 this subsection.

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

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

22 "Custodian" means, with respect to qualifying pupils, an
23 Illinois resident who is a parent, the parents, a legal
24 guardian, or the legal guardians of the qualifying pupils.

25 (n) River Edge Redevelopment Zone site remediation tax
26 credit.

1 (i) For tax years ending on or after December 31, 2006,
2 a taxpayer shall be allowed a credit against the tax
3 imposed by subsections (a) and (b) of this Section for
4 certain amounts paid for unreimbursed eligible remediation
5 costs, as specified in this subsection. For purposes of
6 this Section, "unreimbursed eligible remediation costs"
7 means costs approved by the Illinois Environmental
8 Protection Agency ("Agency") under Section 58.14a of the
9 Environmental Protection Act that were paid in performing
10 environmental remediation at a site within a River Edge
11 Redevelopment Zone for which a No Further Remediation
12 Letter was issued by the Agency and recorded under Section
13 58.10 of the Environmental Protection Act. The credit must
14 be claimed for the taxable year in which Agency approval of
15 the eligible remediation costs is granted. The credit is
16 not available to any taxpayer if the taxpayer or any
17 related party caused or contributed to, in any material
18 respect, a release of regulated substances on, in, or under
19 the site that was identified and addressed by the remedial
20 action pursuant to the Site Remediation Program of the
21 Environmental Protection Act. Determinations as to credit
22 availability for purposes of this Section shall be made
23 consistent with rules adopted by the Pollution Control
24 Board pursuant to the Illinois Administrative Procedure
25 Act for the administration and enforcement of Section 58.9
26 of the Environmental Protection Act. For purposes of this

1 Section, "taxpayer" includes a person whose tax attributes
2 the taxpayer has succeeded to under Section 381 of the
3 Internal Revenue Code and "related party" includes the
4 persons disallowed a deduction for losses by paragraphs
5 (b), (c), and (f)(1) of Section 267 of the Internal Revenue
6 Code by virtue of being a related taxpayer, as well as any
7 of its partners. The credit allowed against the tax imposed
8 by subsections (a) and (b) shall be equal to 25% of the
9 unreimbursed eligible remediation costs in excess of
10 \$100,000 per site.

11 (ii) A credit allowed under this subsection that is
12 unused in the year the credit is earned may be carried
13 forward to each of the 5 taxable years following the year
14 for which the credit is first earned until it is used. This
15 credit shall be applied first to the earliest year for
16 which there is a liability. If there is a credit under this
17 subsection from more than one tax year that is available to
18 offset a liability, the earliest credit arising under this
19 subsection shall be applied first. A credit allowed under
20 this subsection may be sold to a buyer as part of a sale of
21 all or part of the remediation site for which the credit
22 was granted. The purchaser of a remediation site and the
23 tax credit shall succeed to the unused credit and remaining
24 carry-forward period of the seller. To perfect the
25 transfer, the assignor shall record the transfer in the
26 chain of title for the site and provide written notice to

1 the Director of the Illinois Department of Revenue of the
2 assignor's intent to sell the remediation site and the
3 amount of the tax credit to be transferred as a portion of
4 the sale. In no event may a credit be transferred to any
5 taxpayer if the taxpayer or a related party would not be
6 eligible under the provisions of subsection (i).

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

10 (Source: P.A. 96-115, eff. 7-31-09; 96-116, eff. 7-31-09;
11 96-937, eff. 6-23-10; 96-1000, eff. 7-2-10; 96-1496, eff.
12 1-13-11; 97-2, eff. 5-6-11.)

13 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

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

10 (1) Property factor.

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

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

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

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

4 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 be treated as duty days.

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

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

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

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

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

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

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

26 (3) Sales factor.

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

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

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

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

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

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

10 (ii) Place of utilization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "Service address" means:

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

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

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

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

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

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

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

9 (c) Tangible personal property;

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

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

14 (f) Internet access service;

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

25 (h) "Ancillary services"; or

26 (i) Digital products "delivered

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (b) Insurance companies.

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

24 (2) Reinsurance. If the principal source of premiums
25 written by an insurance company consists of premiums for
26 reinsurance accepted by it, the business income of such

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

1 permission of the Department, which shall not be
2 unreasonably withheld.

3 (c) Financial organizations.

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

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

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

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

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

26 (E) Any other gross income resulting from the

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

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

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

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

21 (i) The numerator shall be:

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

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

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

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

1 financial accounts for the current taxable year.

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

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

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

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

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

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

26 (iv) Interest income, commissions, fees, gains on

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (4) (Blank).

12 (5) (Blank).

13 (c-1) Federally-regulated exchanges, execution platforms,
14 and clearinghouses. For taxable years ending on or after
15 December 31, 2011, business income of federally-regulated
16 exchanges, execution platforms, and clearinghouses (as defined
17 in this subsection) shall, at the option of the
18 federally-regulated exchange, execution platform, or
19 clearinghouse, be apportioned to this State by multiplying such
20 income by a fraction, the numerator of which is its business
21 income from sources within this State, and the denominator of
22 which is its business income from all sources. For purposes of
23 this subsection, the business income of a federally-regulated
24 exchange, execution platform, and clearinghouse from sources
25 within this State is the sum of the amounts referred to in
26 subparagraphs (1) through (8) following:

1 (1) 100% of receipts attributable to transactions
2 executed via open outcry on a physical trading floor
3 located in this State.

4 (2) 27.54% of receipts attributable to transactions
5 matched or executed by means of an electronic transaction
6 system, including where a taxpayer provides electronic
7 matching or execution services for another exchange or
8 execution platform.

9 (3) 27.54% of receipts attributable to the clearing of
10 transactions not matched or executed on the taxpayer's
11 physical trading floor or electronic transaction systems,
12 including "ex-pit" transaction fees and post-trade
13 transaction fees, and including where a taxpayer provides
14 clearing services for another clearinghouse.

15 (4) Receipts attributable to licensing, sale, or other
16 disposition of a patent, copyright, trademark, or similar
17 item of intangible personal property are sourced in
18 accordance with the rules contained in paragraph (B-1) of
19 item (3) of subsection (a) of this Section.

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

22 (6) Sales from the lease or rental of tangible personal
23 property are in this State if the property is located in
24 this State during the rental period.

25 (7) In the case of interest, net gains (but not less
26 than zero), and other items of income from intangible

1 personal property, the sale is in this State if:

2 (A) in the case of a taxpayer who is a dealer in
3 the item of intangible personal property within the
4 meaning of Section 475 of the Internal Revenue Code, or
5 who regularly engages in the sale, licensing, leasing,
6 assignment, or other disposition of any type of
7 intangible personal property and would be a dealer with
8 respect to such property under Section 475 if the
9 property were a "security" as defined under Section
10 475(c)(2) of the Internal Revenue Code, the income or
11 gain is received from a customer in this State; for
12 example, Taxpayer regularly grants limited,
13 non-exclusive licenses to use and distribute its
14 proprietary data and data it gathers from other
15 sources; taxpayer is not a dealer "in securities" under
16 Section 475; however, Taxpayer is a "dealer in the item
17 of intangible personal property" (the data) for
18 purposes of this Section; for purposes of this
19 subparagraph, a customer is in this State if the
20 customer is an individual, trust, or estate who is a
21 resident of this State and, for all other customers, if
22 the customer's commercial domicile is in this State;
23 unless the dealer has actual knowledge of the residence
24 or commercial domicile of a customer during a taxable
25 year, the customer shall be deemed to be a customer in
26 this State if the billing address of the customer, as

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

2 or

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

10 (8) All other sales of services not covered by (1)
11 through (7) of this subsection are in this State if the
12 services are received in this State. For the purposes of
13 this subsection, gross receipts from the performance of
14 services provided to a corporation, partnership, or trust
15 may only be attributed to a state where that corporation,
16 partnership, or trust has a fixed place of business. If the
17 state where the services are received is not readily
18 determinable or is a state where the corporation,
19 partnership, or trust receiving the service does not have a
20 fixed place of business, the services shall be deemed to be
21 received at the location of the office of the customer from
22 which the services were ordered in the regular course of
23 the customer's trade or business. If the ordering office
24 cannot be determined, the services shall be deemed to be
25 received at the office of the customer to which the
26 services are billed.

1 "Federally-regulated exchanges, execution platforms, and
2 clearinghouses", as used in this subsection, means a designated
3 contract market, swap execution facility, or derivatives
4 clearing organization regulated by the U.S. Commodity Futures
5 Trading Commission, or a securities exchange, security-based
6 swap execution facility, or securities clearinghouse regulated
7 by the U. S. Securities and Exchange Commission, including any
8 institution engaged in comparable trading or clearing
9 activities that is regulated by any successor designated
10 federal regulatory agency to one or both of the foregoing
11 agencies.

12 The special industry rules for federally-regulated
13 exchanges, execution platforms, and clearinghouses shall apply
14 to all entities satisfying the statutory definition of this
15 subsection and all unitary affiliates, including holding
16 companies.

17 If the federally-regulated exchange, execution platform,
18 or clearinghouse chooses not to apportion its income according
19 to this subsection (c-1), its business income shall be
20 apportioned to this State in accordance with subsection (a) of
21 this Section.

22 In no event shall the Illinois apportionment percentage
23 computed in accordance with this subsection (c-1) for any
24 taxpayer for any tax year be less than the Illinois
25 apportionment percentage computed under this subsection (c-1)
26 for that taxpayer for the first full tax year for which this

1 subsection (c-1) applied to the taxpayer.

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

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

20 (A) relative railway operating income from total
21 passenger and total freight service, as reported to the
22 Interstate Commerce Commission, in the case of
23 transportation by railroad, and

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

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

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

1 goods, mail, oil, gas, or any other substance (other than
2 by airline). Where a taxpayer is engaged in the
3 transportation of both passengers and freight, the
4 fraction above referred to shall first be determined
5 separately for passenger miles and freight miles. Then an
6 average of the passenger miles fraction and the freight
7 miles fraction shall be weighted to reflect the taxpayer's:

8 (A) relative railway operating income from total
9 passenger and total freight service, as reported to the
10 Surface Transportation Board, in the case of
11 transportation by railroad; and

12 (B) relative gross receipts from passenger and
13 freight transportation, in case of transportation
14 other than by railroad.

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

1 mile fraction and the freight revenue mile fraction,
2 weighted to reflect the person's relative gross receipts
3 from passenger and freight airline transportation.

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

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

17 (1) Separate accounting;

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

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

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

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

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

4 (1) for tax years ending on or after December 31, 1998
5 and before December 31, 1999, 16 2/3% of the property
6 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
7 the sales factor;

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

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

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."