

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 303 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

6 (d) Patent and copyright royalties.

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

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

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

16 (2) Utilization.

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

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

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

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

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

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

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

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

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

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

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

1 Section 99. Effective date. This Act takes effect July 1,
2 2012.