

SB3526



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3526

Introduced 2/8/2012, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. Provides that provisions of the Act concerning the apportionment of business income of a transportation company apply to (i) income derived by the transportation company from the movement of freight or passengers by air, land, or water, (ii) income derived by the transportation company from the movement of liquid or gaseous substances, and (iii) the provision of services related to those activities. Defines "transportation company". Effective immediately.

LRB097 20198 HLH 65612 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

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

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

1 this Section, persons other than residents who derive business
2 income from this State and one or more other states shall
3 compute their apportionment factor by weighting their
4 property, payroll, and sales factors as provided in subsection
5 (h) of this Section.

6 (1) Property factor.

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

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

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

26 (2) Payroll factor.

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

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

7 (i) The individual's service is performed entirely
8 within this State;

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

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

21 (iv) Compensation paid to nonresident professional
22 athletes.

23 (a) General. The Illinois source income of a
24 nonresident individual who is a member of a
25 professional athletic team includes the portion of the
26 individual's total compensation for services performed

1 as a member of a professional athletic team during the
2 taxable year which the number of duty days spent within
3 this State performing services for the team in any
4 manner during the taxable year bears to the total
5 number of duty days spent both within and without this
6 State during the taxable year.

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

13 (c) Definitions. For purposes of this subpart
14 (iv):

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

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

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

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

23 (B) Also included in duty days are game
24 days, practice days, days spent at team
25 meetings, promotional caravans, preseason
26 training camps, and days served with the team

1 through all post-season games in which the team
2 competes or is scheduled to compete.

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

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

24 (E) Days for which a member of a
25 professional athletic team is on the disabled
26 list and does not conduct rehabilitation

1 activities at facilities of the team, and is
2 not otherwise performing services for the team
3 in Illinois, shall not be considered duty days
4 spent in this State. All days on the disabled
5 list, however, are considered to be included in
6 total duty days spent both within and without
7 this State.

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

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

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

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

1 contract or option year buy-out payments,
2 expansion or relocation payments, or any other
3 payments not related to services performed for the
4 team.

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

22 (3) Sales factor.

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

1 (B) Sales of tangible personal property are in this
2 State if:

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

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

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

25 (i) Gross receipts from the licensing, sale, or
26 other disposition of a patent, copyright, trademark,

1 or similar item of intangible personal property, other
2 than gross receipts governed by paragraph (B-7) of this
3 item (3), are in this State to the extent the item is
4 utilized in this State during the year the gross
5 receipts are included in gross income.

6 (ii) Place of utilization.

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

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

1 materials printed or published in that state
2 divided by the total of such gross receipts for all
3 states in which the copyright is utilized.

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

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

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

1 taxpayer is a member of a unitary business group, such
2 determination shall be made on the basis of the gross
3 receipts of the entire unitary business group.

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

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

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

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

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

25 "Communications Channel" means a physical or
26 virtual path of communications over which signals are

1 transmitted between or among customer channel
2 termination points.

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

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

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

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

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

23 "Mobile telecommunications service" means
24 commercial mobile radio service, as defined in Section
25 20.3 of Title 47 of the Code of Federal Regulations as
26 in effect on June 1, 1999.

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

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

21 "Prepaid telecommunication service" means the
22 right to access exclusively telecommunications
23 services, which must be paid for in advance and which
24 enables the origination of calls using an access number
25 or authorization code, whether manually or
26 electronically dialed, and that is sold in

1 predetermined units or dollars of which the number
2 declines with use in a known amount.

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

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

20 "Service address" means:

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

25 (b) If the location in line (a) is not known,
26 service address means the origination point of the

1 signal of the telecommunications services first
2 identified by either the seller's
3 telecommunications system or in information
4 received by the seller from its service provider
5 where the system used to transport such signals is
6 not that of the seller; and

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

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

23 (a) Data processing and information services
24 that allow data to be generated, acquired, stored,
25 processed, or retrieved and delivered by an
26 electronic transmission to a purchaser when such

1 purchaser's primary purpose for the underlying
2 transaction is the processed data or information;

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

5 (c) Tangible personal property;

6 (d) Advertising, including but not limited to
7 directory advertising.

8 (e) Billing and collection services provided
9 to third parties;

10 (f) Internet access service;

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

21 (h) "Ancillary services"; or

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

26 "Vertical service" means an "ancillary service"

1 that is offered in connection with one or more
2 "telecommunications services", which offers advanced
3 calling features that allow customers to identify
4 callers and to manage multiple calls and call
5 connections, including "conference bridging services".

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

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

15 (a) The call both originates and terminates in
16 this State.

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

20 (iii) Receipts from the sale of postpaid
21 telecommunications service at retail are in this State
22 if the origination point of the telecommunication
23 signal, as first identified by the service provider's
24 telecommunication system or as identified by
25 information received by the seller from its service
26 provider if the system used to transport

1 telecommunication signals is not the seller's, is
2 located in this State.

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

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

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

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

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

25 (d) The receipts from charges for service
26 segments with a channel termination point located

1 in this State and in two or more other states, and
2 which segments are not separately billed, are in
3 this State based on a percentage determined by
4 dividing the number of customer channel
5 termination points in this State by the total
6 number of customer channel termination points.

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

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

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

24 (b) 50% of the receipts from access fees
25 attributable to interstate telecommunications
26 service if the interstate call either originates

1 or terminates in this State.

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

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

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

25 "Advertising revenue" means consideration received
26 by the taxpayer in exchange for broadcasting services

1 or allowing the broadcasting of commercials or
2 announcements in connection with the broadcasting of
3 film or radio programming, from sponsorships of the
4 programming, or from product placements in the
5 programming.

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

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

23 "Film" or "film programming" means the broadcast
24 on television of any and all performances, events, or
25 productions, including but not limited to news,
26 sporting events, plays, stories, or other literary,

1 commercial, educational, or artistic works, either
2 live or through the use of video tape, disc, or any
3 other type of format or medium. Each episode of a
4 series of films produced for television shall
5 constitute separate "film" notwithstanding that the
6 series relates to the same principal subject and is
7 produced during one or more tax periods.

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

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

25 (ii) In the case where film or radio
26 programming is broadcast by a station, a network,

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

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

1 other total remuneration from the person providing
2 the programming related to that broadcast
3 multiplied by the Illinois audience factor for
4 that broadcast.

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

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

1 the taxpayer that is included in the taxpayer's
2 Illinois numerator of the sales factor is the
3 revenue from such customers who receive the
4 broadcasting service in Illinois.

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

8 (i) The income-producing activity is performed in
9 this State; or

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

15 (C-5) For taxable years ending on or after December 31,
16 2008, sales, other than sales governed by paragraphs (B),
17 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
18 the following criteria are met:

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

22 (ii) Sales from the lease or rental of tangible
23 personal property are in this State if the property is
24 located in this State during the rental period. Sales
25 from the lease or rental of tangible personal property
26 that is characteristically moving property, including,

1 but not limited to, motor vehicles, rolling stock,
2 aircraft, vessels, or mobile equipment are in this
3 State to the extent that the property is used in this
4 State.

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

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

24 (b) in all other cases, if the
25 income-producing activity of the taxpayer is
26 performed in this State or, if the

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

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

1 prescribing where specific types of service are
2 received, including, but not limited to, publishing,
3 and utility service.

4 (D) For taxable years ending on or after December 31,
5 1995, the following items of income shall not be included
6 in the numerator or denominator of the sales factor:
7 dividends; amounts included under Section 78 of the
8 Internal Revenue Code; and Subpart F income as defined in
9 Section 952 of the Internal Revenue Code. No inference
10 shall be drawn from the enactment of this paragraph (D) in
11 construing this Section for taxable years ending before
12 December 31, 1995.

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

1 group for every tax year such group is in existence, but
2 shall not apply to any taxpayer for any period during which
3 that taxpayer is not a member of such group.

4 (b) Insurance companies.

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

20 (2) Reinsurance. If the principal source of premiums
21 written by an insurance company consists of premiums for
22 reinsurance accepted by it, the business income of such
23 company shall be apportioned to this State by multiplying
24 such income by a fraction, the numerator of which is the
25 sum of (i) direct premiums written for insurance upon
26 property or risk in this State, plus (ii) premiums written

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

25 (c) Financial organizations.

26 (1) In general. For taxable years ending before

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

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

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

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

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

22 (E) Any other gross income resulting from the
23 operation as a financial organization within this
24 State. In computing the amounts referred to in
25 paragraphs (A) through (E) of this subsection, any
26 amount received by a member of an affiliated group

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

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

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

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

17 (i) The numerator shall be:

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

1 Lines 2.c., 5.b., and 7.a., which was filed with
2 the Federal Deposit Insurance Corporation and
3 other regulatory authorities, for the year 1980,
4 minus

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

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

24 (C) Change to Consolidated Report of Condition and
25 in Qualification. In the event the Consolidated Report
26 of Condition which is filed with the Federal Deposit

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

15 (3) For taxable years ending on or after December 31,
16 2008, the business income of a financial organization shall
17 be apportioned to this State by multiplying such income by
18 a fraction, the numerator of which is its gross receipts
19 from sources in this State or otherwise attributable to
20 this State's marketplace and the denominator of which is
21 its gross receipts everywhere during the taxable year.
22 "Gross receipts" for purposes of this subparagraph (3)
23 means gross income, including net taxable gain on
24 disposition of assets, including securities and money
25 market instruments, when derived from transactions and
26 activities in the regular course of the financial

1 organization's trade or business. The following examples
2 are illustrative:

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

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

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

22 (iv) Interest income, commissions, fees, gains on
23 disposition, and other receipts from commercial loans
24 and installment obligations that are not secured by
25 real or tangible personal property are from sources in
26 this State if the proceeds of the loan are to be

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

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

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

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

23 (viii) Receipts from investment assets and
24 activities and trading assets and activities are
25 included in the receipts factor as follows:

26 (1) Interest, dividends, net gains (but not

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

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

23 (B) The receipts factor shall include the
24 amount by which interest, dividends, gains and
25 other income from trading assets and
26 activities, including but not limited to

1 assets and activities in the matched book, in
2 the arbitrage book, and foreign currency
3 transactions, exceed amounts paid in lieu of
4 interest, amounts paid in lieu of dividends,
5 and losses from such assets and activities.

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

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

25 (B) The amount of interest from federal
26 funds sold and purchased and from securities

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

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

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

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

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

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

23 (iii) the taxpayer uses such records
24 reflecting assignment of such assets or
25 activities for the filing of all state and
26 local tax returns for which an assignment

1 of such assets or activities to a fixed
2 place of business is required.

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

1 which the greatest number of employees are
2 regularly connected with the management of the
3 investment or trading income or out of which
4 they are working, irrespective of where the
5 services of such employees are performed, as of
6 the last day of the taxable year.

7 (4) (Blank).

8 (5) (Blank).

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

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

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

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

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

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

23 (3) For taxable years ending on or after December 31,
24 2008, business income derived by a transportation company
25 engaged in the movement of freight or passengers by land or
26 water ~~from providing transportation services other than~~

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

22 (A) relative railway operating income from total
23 passenger and total freight service, as reported to the
24 Surface Transportation Board, in the case of
25 transportation by railroad; and

26 (B) relative gross receipts from passenger and

1 freight transportation, in case of transportation
2 other than by railroad.

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

20 For purposes of this subsection (d), the term
21 "transportation company" means any person primarily engaged in
22 (i) the movement of freight or passengers by air, land, or
23 water or (ii) the movement of liquid or gaseous substances by
24 pipeline and the provision of services incidental thereto
25 including, but not limited to, (i) with regard to railroads,
26 the in-transit sale of food or beverages, switching, demurrage,

1 and packing and warehousing; (ii) with regard to airlines, the
2 in flight rental of pillows, blankets, movies, or headsets, the
3 in flight sale of food or beverages, baggage services, and
4 making, changing, or cancelling reservations; (iii) with
5 regard to trucking companies, packing and warehousing,
6 furnishing vehicles with drivers to another transportation
7 company under lease or similar arrangements, and (iv)
8 transportation brokerage and freight forwarding services. For
9 purposes of this subsection, a person who is a member of a
10 unitary business group which includes a transportation company
11 or companies and who primarily provides services incidental to
12 the movement of freight or passengers by air, land, or water or
13 the movement of liquid or gaseous substances by pipeline as
14 defined in this subsection shall be considered a transportation
15 company.

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

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

1 respect of all or any part of the person's business activity,
2 if reasonable:

3 (1) Separate accounting;

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

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

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

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

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

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

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

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

26 If, in any tax year ending on or after December 31, 1998 and

1 before December 31, 2000, the denominator of the payroll,
2 property, or sales factor is zero, the apportionment factor
3 computed in paragraph (1) or (2) of this subsection for that
4 year shall be divided by an amount equal to 100% minus the
5 percentage weight given to each factor whose denominator is
6 equal to zero.

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

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

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

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

1 income from this State and one or more other states shall
2 compute their apportionment factor by weighting their
3 property, payroll, and sales factors as provided in subsection
4 (h) of this Section.

5 (1) Property factor.

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

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

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

25 (2) Payroll factor.

26 (A) The payroll factor is a fraction, the numerator of

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

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

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

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

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

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

22 (a) General. The Illinois source income of a
23 nonresident individual who is a member of a
24 professional athletic team includes the portion of the
25 individual's total compensation for services performed
26 as a member of a professional athletic team during the

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

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

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

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

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

26 (3) Except as provided in items (C) and (D) of

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

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

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

1 competes or is scheduled to compete.

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

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

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

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

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

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

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

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

1 expansion or relocation payments, or any other
2 payments not related to services performed for the
3 team.

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

21 (3) Sales factor.

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

26 (B) Sales of tangible personal property are in this

1 State if:

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

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

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

24 (i) Gross receipts from the licensing, sale, or
25 other disposition of a patent, copyright, trademark,
26 or similar item of intangible personal property, other

1 than gross receipts governed by paragraph (B-7) of this
2 item (3), are in this State to the extent the item is
3 utilized in this State during the year the gross
4 receipts are included in gross income.

5 (ii) Place of utilization.

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

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

1 divided by the total of such gross receipts for all
2 states in which the copyright is utilized.

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

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

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

1 determination shall be made on the basis of the gross
2 receipts of the entire unitary business group.

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

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

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

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

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

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

1 termination points.

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

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

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

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

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

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

26 "Place of primary use" means the street address

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

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

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

1 declines with use in a known amount.

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

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

19 "Service address" means:

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

24 (b) If the location in line (a) is not known,
25 service address means the origination point of the
26 signal of the telecommunications services first

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

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

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

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

1 transaction is the processed data or information;

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

4 (c) Tangible personal property;

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

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

9 (f) Internet access service;

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

20 (h) "Ancillary services"; or

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

25 "Vertical service" means an "ancillary service"
26 that is offered in connection with one or more

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

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

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

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

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

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

1 located in this State.

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

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

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

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

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

24 (d) The receipts from charges for service
25 segments with a channel termination point located
26 in this State and in two or more other states, and

1 which segments are not separately billed, are in
2 this State based on a percentage determined by
3 dividing the number of customer channel
4 termination points in this State by the total
5 number of customer channel termination points.

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

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

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

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

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

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

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

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

1 announcements in connection with the broadcasting of
2 film or radio programming, from sponsorships of the
3 programming, or from product placements in the
4 programming.

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

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

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

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

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

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

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

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

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

1 the programming related to that broadcast
2 multiplied by the Illinois audience factor for
3 that broadcast.

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

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

1 Illinois numerator of the sales factor is the
2 revenue from such customers who receive the
3 broadcasting service in Illinois.

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

7 (i) The income-producing activity is performed in
8 this State; or

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

14 (C-5) For taxable years ending on or after December 31,
15 2008, sales, other than sales governed by paragraphs (B),
16 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
17 the following criteria are met:

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

21 (ii) Sales from the lease or rental of tangible
22 personal property are in this State if the property is
23 located in this State during the rental period. Sales
24 from the lease or rental of tangible personal property
25 that is characteristically moving property, including,
26 but not limited to, motor vehicles, rolling stock,

1 aircraft, vessels, or mobile equipment are in this
2 State to the extent that the property is used in this
3 State.

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

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

23 (b) in all other cases, if the
24 income-producing activity of the taxpayer is
25 performed in this State or, if the
26 income-producing activity of the taxpayer is

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

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

1 received, including, but not limited to, publishing,
2 and utility service.

3 (D) For taxable years ending on or after December 31,
4 1995, the following items of income shall not be included
5 in the numerator or denominator of the sales factor:
6 dividends; amounts included under Section 78 of the
7 Internal Revenue Code; and Subpart F income as defined in
8 Section 952 of the Internal Revenue Code. No inference
9 shall be drawn from the enactment of this paragraph (D) in
10 construing this Section for taxable years ending before
11 December 31, 1995.

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

1 shall not apply to any taxpayer for any period during which
2 that taxpayer is not a member of such group.

3 (b) Insurance companies.

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

19 (2) Reinsurance. If the principal source of premiums
20 written by an insurance company consists of premiums for
21 reinsurance accepted by it, the business income of such
22 company shall be apportioned to this State by multiplying
23 such income by a fraction, the numerator of which is the
24 sum of (i) direct premiums written for insurance upon
25 property or risk in this State, plus (ii) premiums written
26 for reinsurance accepted in respect of property or risk in

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

24 (c) Financial organizations.

25 (1) In general. For taxable years ending before
26 December 31, 2008, business income of a financial

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

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

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

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

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

21 (E) Any other gross income resulting from the
22 operation as a financial organization within this
23 State. In computing the amounts referred to in
24 paragraphs (A) through (E) of this subsection, any
25 amount received by a member of an affiliated group
26 (determined under Section 1504(a) of the Internal

1 Revenue Code but without reference to whether any such
2 corporation is an "includible corporation" under
3 Section 1504(b) of the Internal Revenue Code) from
4 another member of such group shall be included only to
5 the extent such amount exceeds expenses of the
6 recipient directly related thereto.

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

9 (A) Adjusted Income. The adjusted income of an
10 international banking facility is its income reduced
11 by the amount of the floor amount.

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

16 (i) The numerator shall be:

17 The average aggregate, determined on a
18 quarterly basis, of the financial organization's
19 loans to banks in foreign countries, to foreign
20 domiciled borrowers (except where secured
21 primarily by real estate) and to foreign
22 governments and other foreign official
23 institutions, as reported for its branches,
24 agencies and offices within the state on its
25 "Consolidated Report of Condition", Schedule A,
26 Lines 2.c., 5.b., and 7.a., which was filed with

1 the Federal Deposit Insurance Corporation and
2 other regulatory authorities, for the year 1980,
3 minus

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

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

23 (C) Change to Consolidated Report of Condition and
24 in Qualification. In the event the Consolidated Report
25 of Condition which is filed with the Federal Deposit
26 Insurance Corporation and other regulatory authorities

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

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

1 are illustrative:

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

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

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

21 (iv) Interest income, commissions, fees, gains on
22 disposition, and other receipts from commercial loans
23 and installment obligations that are not secured by
24 real or tangible personal property are from sources in
25 this State if the proceeds of the loan are to be
26 applied in this State. If it cannot be determined where

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

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

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

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

22 (viii) Receipts from investment assets and
23 activities and trading assets and activities are
24 included in the receipts factor as follows:

25 (1) Interest, dividends, net gains (but not
26 less than zero) and other income from investment

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

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

22 (B) The receipts factor shall include the
23 amount by which interest, dividends, gains and
24 other income from trading assets and
25 activities, including but not limited to
26 assets and activities in the matched book, in

1 the arbitrage book, and foreign currency
2 transactions, exceed amounts paid in lieu of
3 interest, amounts paid in lieu of dividends,
4 and losses from such assets and activities.

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

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

24 (B) The amount of interest from federal
25 funds sold and purchased and from securities
26 purchased under resale agreements and

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

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

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

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

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

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

22 (iii) the taxpayer uses such records
23 reflecting assignment of such assets or
24 activities for the filing of all state and
25 local tax returns for which an assignment
26 of such assets or activities to a fixed

1 place of business is required.

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

1 regularly connected with the management of the
2 investment or trading income or out of which
3 they are working, irrespective of where the
4 services of such employees are performed, as of
5 the last day of the taxable year.

6 (4) (Blank).

7 (5) (Blank).

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

18 (1) Receipts attributable to transactions executed on
19 a physical trading floor if that physical trading floor is
20 located in this State.

21 (2) Receipts attributable to all other matching,
22 execution, or clearing transactions, including without
23 limitation receipts from the provision of matching,
24 execution, or clearing services to another entity,
25 multiplied by (i) for taxable years ending on or after
26 December 31, 2012 but before December 31, 2013, 63.77%; and

1 (ii) for taxable years ending on or after December 31,
2 2013, 27.54%.

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

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

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

1 apportionment percentage computed under this subsection (c-1)
2 for that taxpayer for the first full tax year ending on or
3 after December 31, 2013 for which this subsection (c-1) applied
4 to the taxpayer.

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

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

26 (A) relative railway operating income from total

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

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

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

19 (3) For taxable years ending on or after December 31,
20 2008, business income derived by a transportation company
21 engaged in the movement of freight or passengers by land or
22 water ~~from providing transportation services other than~~
23 ~~airline services~~ shall be apportioned to this State by
24 using a fraction, (a) the numerator of which shall be (i)
25 all receipts from any movement or shipment of people,
26 goods, mail, oil, gas, or any other substance (other than

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

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

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

25 (4) For taxable years ending on or after December 31,
26 2008, business income derived by a transportation company

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

16 For purposes of this subsection (d), the term
17 "transportation company" means any person primarily engaged in
18 (i) the movement of freight or passengers by air, land, or
19 water or (ii) the movement of liquid or gaseous substances by
20 pipeline and the provision of services incidental thereto
21 including, but not limited to, (i) with regard to railroads,
22 the in-transit sale of food or beverages, switching, demurrage,
23 and packing and warehousing; (ii) with regard to airlines, the
24 in flight rental of pillows, blankets, movies, or headsets, the
25 in flight sale of food or beverages, baggage services, and
26 making, changing, or cancelling reservations; (iii) with

1 regard to trucking companies, packing and warehousing,
2 furnishing vehicles with drivers to another transportation
3 company under lease or similar arrangements, and (iv)
4 transportation brokerage and freight forwarding services. For
5 purposes of this subsection, a person who is a member of a
6 unitary business group which includes a transportation company
7 or companies and who primarily provides services incidental to
8 the movement of freight or passengers by air, land, or water or
9 the movement of liquid or gaseous substances by pipeline as
10 defined in this subsection shall be considered a transportation
11 company.

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

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

25 (1) Separate accounting;

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

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

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

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

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

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

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

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

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

1 percentage weight given to each factor whose denominator is
2 equal to zero.

3 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11;
4 97-636, eff. 6-1-12.)

5 Section 95. No acceleration or delay. Where this Act makes
6 changes in a statute that is represented in this Act by text
7 that is not yet or no longer in effect (for example, a Section
8 represented by multiple versions), the use of that text does
9 not accelerate or delay the taking effect of (i) the changes
10 made by this Act or (ii) provisions derived from any other
11 Public Act.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.