

1 AN ACT in relation to taxation.

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 Sections 303 and 710 as follows:

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

7 Sec. 303. Nonbusiness income of persons other than
8 residents.

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

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

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

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

26 (B) The taxpayer had its commercial domicile in this
27 State and was not taxable in the state in which the property
28 had its situs.

29 (3) Intangibles. Capital gains and losses from sales or
30 exchanges of intangible personal property are allocable to
31 this State if the taxpayer had its commercial domicile in

1 this State at the time of such sale or exchange.

2 (c) Rents and royalties. (1) Real property. Rents and
3 royalties from real property are allocable to this State if
4 the property is located in this State.

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

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

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

27 (d) Patent and copyright royalties.

28 (1) Allocation. Patent and copyright royalties are
29 allocable to this State:

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

32 (B) If and to the extent that the patent or copyright is
33 utilized by the payer in a state in which the taxpayer is not
34 taxable with respect to such royalties and, at the time such

1 royalties were paid or accrued, the taxpayer had its
2 commercial domicile in this State.

3 (2) Utilization.

4 (A) A patent is utilized in a state to the extent that
5 it is employed in production, fabrication, manufacturing or
6 other processing in the state or to the extent that a
7 patented product is produced in the state. If the basis of
8 receipts from patent royalties does not permit allocation to
9 states or if the accounting procedures do not reflect states
10 of utilization, the patent is utilized in this State if the
11 taxpayer has its commercial domicile in this State.

12 (B) A copyright is utilized in a state to the extent
13 that printing or other publication originates in the state.
14 If the basis of receipts from copyright royalties does not
15 permit allocation to states or if the accounting procedures
16 do not reflect states of utilization, the copyright is
17 utilized in this State if the taxpayer has its commercial
18 domicile in this State.

19 (e) Illinois lottery, wagering, and gambling winnings
20 prizes. Prizes awarded under the "Illinois Lottery Law"
21 approved-December-14, 1973, are allocable to this State.
22 Payments made after December 31, 2001, of winnings from
23 pari-mutuel wagering conducted at a wagering facility
24 licensed under the Illinois Horse Racing Act of 1975 or from
25 gambling games conducted on a riverboat licensed under the
26 Riverboat Gambling Act are allocable to this State.

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

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

33 (2) That state has jurisdiction to subject the taxpayer
34 to a net income tax regardless of whether, in fact, the state

1 does or does not.

2 (g) Cross references. (1) For allocation of interest and
3 dividends by persons other than residents, see Section
4 301(c)(2).

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

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

8 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

9 Sec. 710. Withholding from lottery, wagering, and
10 gambling winnings.

11 (a) In General.

12 (1) Any person making a payment to a resident or
13 nonresident of winnings under the Illinois Lottery Law
14 and not required to withhold Illinois income tax from
15 such payment under Subsection (b) of Section 701 of this
16 Act because those winnings are not subject to federal
17 income tax withholding, must withhold Illinois income tax
18 from such payment at a rate equal to the percentage tax
19 rate for individuals provided in subsection (b) of
20 Section 201, provided that withholding is not required if
21 such payment of winnings is less than \$2,000 (\$1,000, for
22 payments made before January 1, 2002).

23 (2) Any person making a payment after December 31,
24 2001 to a resident or nonresident of winnings from
25 pari-mutuel wagering conducted at a wagering facility
26 licensed under the Illinois Horse Racing Act of 1975 or
27 from gambling games conducted on a riverboat licensed
28 under the Riverboat Gambling Act, and not required to
29 withhold Illinois income tax from such payment under
30 subsection (b) of Section 701 of this Act because those
31 winnings are not subject to federal income tax
32 withholding, must withhold Illinois income tax from such
33 payment at a rate equal to the percentage tax rate for

1 individuals provided in subsection (b) of Section 201,
2 provided that withholding is not required if such payment
3 of winnings is less than \$2,000.

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

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