

1 AN ACT in relation to taxes.

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 201, 202, 203, 209, 502, 506, 601.1, 701,
6 905, 911, and 1501 as follows:

7 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

8 Sec. 201. Tax Imposed.

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

16 (b) Rates. The tax imposed by subsection (a) of this
17 Section shall be determined as follows, except as adjusted by
18 subsection (d-1):

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

23 (2) In the case of an individual, trust or estate,
24 for taxable years beginning prior to July 1, 1989 and
25 ending after June 30, 1989, an amount equal to the sum of
26 (i) 2 1/2% of the taxpayer's net income for the period
27 prior to July 1, 1989, as calculated under Section 202.3,
28 and (ii) 3% of the taxpayer's net income for the period
29 after June 30, 1989, as calculated under Section 202.3.

30 (3) In the case of an individual, trust or estate,
31 for taxable years beginning after June 30, 1989, an

1 amount equal to 3% of the taxpayer's net income for the
2 taxable year.

3 (4) (Blank).

4 (5) (Blank).

5 (6) In the case of a corporation, for taxable years
6 ending prior to July 1, 1989, an amount equal to 4% of
7 the taxpayer's net income for the taxable year.

8 (7) In the case of a corporation, for taxable years
9 beginning prior to July 1, 1989 and ending after June 30,
10 1989, an amount equal to the sum of (i) 4% of the
11 taxpayer's net income for the period prior to July 1,
12 1989, as calculated under Section 202.3, and (ii) 4.8% of
13 the taxpayer's net income for the period after June 30,
14 1989, as calculated under Section 202.3.

15 (8) In the case of a corporation, for taxable years
16 beginning after June 30, 1989, an amount equal to 4.8% of
17 the taxpayer's net income for the taxable year.

18 (c) Personal Property Tax Replacement Income Tax.
19 Beginning on July 1, 1979 and thereafter, in addition to such
20 income tax, there is also hereby imposed the Personal
21 Property Tax Replacement Income Tax measured by net income on
22 every corporation (including Subchapter S corporations),
23 partnership and trust, for each taxable year ending after
24 June 30, 1979. Such taxes are imposed on the privilege of
25 earning or receiving income in or as a resident of this
26 State. The Personal Property Tax Replacement Income Tax
27 shall be in addition to the income tax imposed by subsections
28 (a) and (b) of this Section and in addition to all other
29 occupation or privilege taxes imposed by this State or by any
30 municipal corporation or political subdivision thereof.

31 (d) Additional Personal Property Tax Replacement Income
32 Tax Rates. The personal property tax replacement income tax
33 imposed by this subsection and subsection (c) of this Section
34 in the case of a corporation, other than a Subchapter S

1 corporation and except as adjusted by subsection (d-1), shall
2 be an additional amount equal to 2.85% of such taxpayer's net
3 income for the taxable year, except that beginning on January
4 1, 1981, and thereafter, the rate of 2.85% specified in this
5 subsection shall be reduced to 2.5%, and in the case of a
6 partnership, trust or a Subchapter S corporation shall be an
7 additional amount equal to 1.5% of such taxpayer's net income
8 for the taxable year.

9 (d-1) Rate reduction for certain foreign insurers. In
10 the case of a foreign insurer, as defined by Section 35A-5 of
11 the Illinois Insurance Code, whose state or country of
12 domicile imposes on insurers domiciled in Illinois a
13 retaliatory tax (excluding any insurer whose premiums from
14 reinsurance assumed are 50% or more of its total insurance
15 premiums as determined under paragraph (2) of subsection (b)
16 of Section 304, except that for purposes of this
17 determination premiums from reinsurance do not include
18 premiums from inter-affiliate reinsurance arrangements),
19 beginning with taxable years ending on or after December 31,
20 1999, the sum of the rates of tax imposed by subsections (b)
21 and (d) shall be reduced (but not increased) to the rate at
22 which the total amount of tax imposed under this Act, net of
23 all credits allowed under this Act, shall equal (i) the total
24 amount of tax that would be imposed on the foreign insurer's
25 net income allocable to Illinois for the taxable year by such
26 foreign insurer's state or country of domicile if that net
27 income were subject to all income taxes and taxes measured by
28 net income imposed by such foreign insurer's state or country
29 of domicile, net of all credits allowed or (ii) a rate of
30 zero if no such tax is imposed on such income by the foreign
31 insurer's state of domicile. For the purposes of this
32 subsection (d-1), an inter-affiliate includes a mutual
33 insurer under common management.

34 (1) For the purposes of subsection (d-1), in no

1 event shall the sum of the rates of tax imposed by
2 subsections (b) and (d) be reduced below the rate at
3 which the sum of:

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

7 (B) the privilege tax imposed by Section 409
8 of the Illinois Insurance Code, the fire insurance
9 company tax imposed by Section 12 of the Fire
10 Investigation Act, and the fire department taxes
11 imposed under Section 11-10-1 of the Illinois
12 Municipal Code,

13 equals 1.25% of the net taxable premiums written for the
14 taxable year, as described by subsection (1) of Section
15 409 of the Illinois Insurance Code. This paragraph will
16 in no event increase the rates imposed under subsections
17 (b) and (d).

18 (2) Any reduction in the rates of tax imposed by
19 this subsection shall be applied first against the rates
20 imposed by subsection (b) and only after the tax imposed
21 by subsection (a) net of all credits allowed under this
22 Section other than the credit allowed under subsection
23 (i) has been reduced to zero, against the rates imposed
24 by subsection (d).

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

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

30 (1) A taxpayer shall be allowed a credit equal to
31 .5% of the basis of qualified property placed in service
32 during the taxable year, provided such property is placed
33 in service on or after July 1, 1984. There shall be
34 allowed an additional credit equal to .5% of the basis of

1 qualified property placed in service during the taxable
2 year, provided such property is placed in service on or
3 after July 1, 1986, and the taxpayer's base employment
4 within Illinois has increased by 1% or more over the
5 preceding year as determined by the taxpayer's employment
6 records filed with the Illinois Department of Employment
7 Security. Taxpayers who are new to Illinois shall be
8 deemed to have met the 1% growth in base employment for
9 the first year in which they file employment records with
10 the Illinois Department of Employment Security. The
11 provisions added to this Section by Public Act 85-1200
12 (and restored by Public Act 87-895) shall be construed as
13 declaratory of existing law and not as a new enactment.
14 If, in any year, the increase in base employment within
15 Illinois over the preceding year is less than 1%, the
16 additional credit shall be limited to that percentage
17 times a fraction, the numerator of which is .5% and the
18 denominator of which is 1%, but shall not exceed .5%.
19 The investment credit shall not be allowed to the extent
20 that it would reduce a taxpayer's liability in any tax
21 year below zero, nor may any credit for qualified
22 property be allowed for any year other than the year in
23 which the property was placed in service in Illinois. For
24 tax years ending on or after December 31, 1987, and on or
25 before December 31, 1988, the credit shall be allowed for
26 the tax year in which the property is placed in service,
27 or, if the amount of the credit exceeds the tax liability
28 for that year, whether it exceeds the original liability
29 or the liability as later amended, such excess may be
30 carried forward and applied to the tax liability of the 5
31 taxable years following the excess credit years if the
32 taxpayer (i) makes investments which cause the creation
33 of a minimum of 2,000 full-time equivalent jobs in
34 Illinois, (ii) is located in an enterprise zone

1 established pursuant to the Illinois Enterprise Zone Act
2 and (iii) is certified by the Department of Commerce and
3 Community Affairs as complying with the requirements
4 specified in clause (i) and (ii) by July 1, 1986. The
5 Department of Commerce and Community Affairs shall notify
6 the Department of Revenue of all such certifications
7 immediately. For tax years ending after December 31,
8 1988, the credit shall be allowed for the tax year in
9 which the property is placed in service, or, if the
10 amount of the credit exceeds the tax liability for that
11 year, whether it exceeds the original liability or the
12 liability as later amended, such excess may be carried
13 forward and applied to the tax liability of the 5 taxable
14 years following the excess credit years. The credit shall
15 be applied to the earliest year for which there is a
16 liability. If there is credit from more than one tax year
17 that is available to offset a liability, earlier credit
18 shall be applied first.

19 (2) The term "qualified property" means property
20 which:

21 (A) is tangible, whether new or used,
22 including buildings and structural components of
23 buildings and signs that are real property, but not
24 including land or improvements to real property that
25 are not a structural component of a building such as
26 landscaping, sewer lines, local access roads,
27 fencing, parking lots, and other appurtenances;

28 (B) is depreciable pursuant to Section 167 of
29 the Internal Revenue Code, except that "3-year
30 property" as defined in Section 168(c)(2)(A) of that
31 Code is not eligible for the credit provided by this
32 subsection (e);

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

1 (D) is used in Illinois by a taxpayer who is
2 primarily engaged in manufacturing, or in mining
3 coal or fluorite, or in retailing; and

4 (E) has not previously been used in Illinois
5 in such a manner and by such a person as would
6 qualify for the credit provided by this subsection
7 (e) or subsection (f).

8 (3) For purposes of this subsection (e),
9 "manufacturing" means the material staging and production
10 of tangible personal property by procedures commonly
11 regarded as manufacturing, processing, fabrication, or
12 assembling which changes some existing material into new
13 shapes, new qualities, or new combinations. For purposes
14 of this subsection (e) the term "mining" shall have the
15 same meaning as the term "mining" in Section 613(c) of
16 the Internal Revenue Code. For purposes of this
17 subsection (e), the term "retailing" means the sale of
18 tangible personal property or services rendered in
19 conjunction with the sale of tangible consumer goods or
20 commodities.

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

24 (5) If the basis of the property for federal income
25 tax depreciation purposes is increased after it has been
26 placed in service in Illinois by the taxpayer, the amount
27 of such increase shall be deemed property placed in
28 service on the date of such increase in basis.

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

32 (7) If during any taxable year, any property ceases
33 to be qualified property in the hands of the taxpayer
34 within 48 months after being placed in service, or the

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

15 (8) Unless the investment credit is extended by
16 law, the basis of qualified property shall not include
17 costs incurred after December 31, 2003, except for costs
18 incurred pursuant to a binding contract entered into on
19 or before December 31, 2003.

20 (9) Each taxable year ending before December 31,
21 2000, a partnership may elect to pass through to its
22 partners the credits to which the partnership is entitled
23 under this subsection (e) for the taxable year. A
24 partner may use the credit allocated to him or her under
25 this paragraph only against the tax imposed in
26 subsections (c) and (d) of this Section. If the
27 partnership makes that election, those credits shall be
28 allocated among the partners in the partnership in
29 accordance with the rules set forth in Section 704(b) of
30 the Internal Revenue Code, and the rules promulgated
31 under that Section, and the allocated amount of the
32 credits shall be allowed to the partners for that taxable
33 year. The partnership shall make this election on its
34 Personal Property Tax Replacement Income Tax return for

1 that taxable year. The election to pass through the
2 credits shall be irrevocable.

3 For taxable years ending on or after December 31,
4 2000, a partner that qualifies its partnership for a
5 subtraction under subparagraph (I) of paragraph (2) of
6 subsection (d) of Section 203 or a shareholder that
7 qualifies a Subchapter S corporation for a subtraction
8 under subparagraph (S) of paragraph (2) of subsection (b)
9 of Section 203 shall be allowed a credit under this
10 subsection (e) equal to its share of the credit earned
11 under this subsection (e) during the taxable year by the
12 partnership or Subchapter S corporation, determined in
13 accordance with the determination of income and
14 distributive share of income under Sections 702 and 704
15 and Subchapter S of the Internal Revenue Code. This
16 paragraph is exempt from the provisions of Section 250.

17 (f) Investment credit; Enterprise Zone.

18 (1) A taxpayer shall be allowed a credit against
19 the tax imposed by subsections (a) and (b) of this
20 Section for investment in qualified property which is
21 placed in service in an Enterprise Zone created pursuant
22 to the Illinois Enterprise Zone Act. For partners,
23 shareholders of Subchapter S corporations, and owners of
24 limited liability companies, if the liability company is
25 treated as a partnership for purposes of federal and
26 State income taxation, there shall be allowed a credit
27 under this subsection (f) to be determined in accordance
28 with the determination of income and distributive share
29 of income under Sections 702 and 704 and Subchapter S of
30 the Internal Revenue Code. The credit shall be .5% of
31 the basis for such property. The credit shall be
32 available only in the taxable year in which the property
33 is placed in service in the Enterprise Zone and shall not
34 be allowed to the extent that it would reduce a

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

15 (2) The term qualified property means property
16 which:

17 (A) is tangible, whether new or used,
18 including buildings and structural components of
19 buildings;

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

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

27 (D) is used in the Enterprise Zone by the
28 taxpayer; and

29 (E) has not been previously used in Illinois
30 in such a manner and by such a person as would
31 qualify for the credit provided by this subsection
32 (f) or subsection (e).

33 (3) The basis of qualified property shall be the
34 basis used to compute the depreciation deduction for

1 federal income tax purposes.

2 (4) If the basis of the property for federal income
3 tax depreciation purposes is increased after it has been
4 placed in service in the Enterprise Zone by the taxpayer,
5 the amount of such increase shall be deemed property
6 placed in service on the date of such increase in basis.

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

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

27 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
28 Zone or Sub-Zone.

29 (1) A taxpayer conducting a trade or business in an
30 enterprise zone or a High Impact Business designated by
31 the Department of Commerce and Community Affairs
32 conducting a trade or business in a federally designated
33 Foreign Trade Zone or Sub-Zone shall be allowed a credit
34 against the tax imposed by subsections (a) and (b) of

1 this Section in the amount of \$500 per eligible employee
2 hired to work in the zone during the taxable year.

3 (2) To qualify for the credit:

4 (A) the taxpayer must hire 5 or more eligible
5 employees to work in an enterprise zone or federally
6 designated Foreign Trade Zone or Sub-Zone during the
7 taxable year;

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

16 (C) the eligible employees must be employed
17 180 consecutive days in order to be deemed hired for
18 purposes of this subsection.

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

21 (A) Certified by the Department of Commerce
22 and Community Affairs as "eligible for services"
23 pursuant to regulations promulgated in accordance
24 with Title II of the Job Training Partnership Act,
25 Training Services for the Disadvantaged or Title III
26 of the Job Training Partnership Act, Employment and
27 Training Assistance for Dislocated Workers Program.

28 (B) Hired after the enterprise zone or
29 federally designated Foreign Trade Zone or Sub-Zone
30 was designated or the trade or business was located
31 in that zone, whichever is later.

32 (C) Employed in the enterprise zone or Foreign
33 Trade Zone or Sub-Zone. An employee is employed in
34 an enterprise zone or federally designated Foreign

1 Trade Zone or Sub-Zone if his services are rendered
2 there or it is the base of operations for the
3 services performed.

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

6 (4) For tax years ending on or after December 31,
7 1985 and prior to December 31, 1988, the credit shall be
8 allowed for the tax year in which the eligible employees
9 are hired. For tax years ending on or after December 31,
10 1988, the credit shall be allowed for the tax year
11 immediately following the tax year in which the eligible
12 employees are hired. If the amount of the credit exceeds
13 the tax liability for that year, whether it exceeds the
14 original liability or the liability as later amended,
15 such excess may be carried forward and applied to the tax
16 liability of the 5 taxable years following the excess
17 credit year. The credit shall be applied to the earliest
18 year for which there is a liability. If there is credit
19 from more than one tax year that is available to offset a
20 liability, earlier credit shall be applied first.

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

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

26 (h) Investment credit; High Impact Business.

27 (1) Subject to subsections (b) and (b-5) of Section
28 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall
29 be allowed a credit against the tax imposed by
30 subsections (a) and (b) of this Section for investment in
31 qualified property which is placed in service by a
32 Department of Commerce and Community Affairs designated
33 High Impact Business. The credit shall be .5% of the
34 basis for such property. The credit shall not be

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

34 Changes made in this subdivision (h)(1) by Public

1 Act 88-670 restore changes made by Public Act 85-1182 and
2 reflect existing law.

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

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

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

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

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

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

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

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

30 (6) If during any taxable year ending on or before
31 December 31, 1996, any property ceases to be qualified
32 property in the hands of the taxpayer within 48 months
33 after being placed in service, or the situs of any
34 qualified property is moved outside Illinois within 48

1 months after being placed in service, the tax imposed
2 under subsections (a) and (b) of this Section for such
3 taxable year shall be increased. Such increase shall be
4 determined by (i) recomputing the investment credit which
5 would have been allowed for the year in which credit for
6 such property was originally allowed by eliminating such
7 property from such computation, and (ii) subtracting such
8 recomputed credit from the amount of credit previously
9 allowed. For the purposes of this paragraph (6), a
10 reduction of the basis of qualified property resulting
11 from a redetermination of the purchase price shall be
12 deemed a disposition of qualified property to the extent
13 of such reduction.

14 (7) Beginning with tax years ending after December
15 31, 1996, if a taxpayer qualifies for the credit under
16 this subsection (h) and thereby is granted a tax
17 abatement and the taxpayer relocates its entire facility
18 in violation of the explicit terms and length of the
19 contract under Section 18-183 of the Property Tax Code,
20 the tax imposed under subsections (a) and (b) of this
21 Section shall be increased for the taxable year in which
22 the taxpayer relocated its facility by an amount equal to
23 the amount of credit received by the taxpayer under this
24 subsection (h).

25 (i) Credit for Personal Property Tax Replacement Income
26 Tax. A credit shall be allowed against the tax imposed by
27 subsections (a) and (b) of this Section for the tax imposed
28 by subsections (c) and (d) of this Section. This credit
29 shall be computed by multiplying the tax imposed by
30 subsections (c) and (d) of this Section by a fraction, the
31 numerator of which is base income allocable to Illinois and
32 the denominator of which is Illinois base income, and further
33 multiplying the product by the tax rate imposed by
34 subsections (a) and (b) of this Section.

1 Any credit earned on or after December 31, 1986 under
2 this subsection which is unused in the year the credit is
3 computed because it exceeds the tax liability imposed by
4 subsections (a) and (b) for that year (whether it exceeds the
5 original liability or the liability as later amended) may be
6 carried forward and applied to the tax liability imposed by
7 subsections (a) and (b) of the 5 taxable years following the
8 excess credit year. This credit shall be applied first to
9 the earliest year for which there is a liability. If there
10 is a credit under this subsection from more than one tax year
11 that is available to offset a liability the earliest credit
12 arising under this subsection shall be applied first.

13 If, during any taxable year ending on or after December
14 31, 1986, the tax imposed by subsections (c) and (d) of this
15 Section for which a taxpayer has claimed a credit under this
16 subsection (i) is reduced, the amount of credit for such tax
17 shall also be reduced. Such reduction shall be determined by
18 recomputing the credit to take into account the reduced tax
19 imposed by subsections ~~subsectien~~ (c) and (d). If any
20 portion of the reduced amount of credit has been carried to a
21 different taxable year, an amended return shall be filed for
22 such taxable year to reduce the amount of credit claimed.

23 (j) Training expense credit. Beginning with tax years
24 ending on or after December 31, 1986, a taxpayer shall be
25 allowed a credit against the tax imposed by subsections
26 ~~subsectien~~ (a) and (b) under this Section for all amounts
27 paid or accrued, on behalf of all persons employed by the
28 taxpayer in Illinois or Illinois residents employed outside
29 of Illinois by a taxpayer, for educational or vocational
30 training in semi-technical or technical fields or
31 semi-skilled or skilled fields, which were deducted from
32 gross income in the computation of taxable income. The
33 credit against the tax imposed by subsections (a) and (b)
34 shall be 1.6% of such training expenses. For partners,

1 shareholders of subchapter S corporations, and owners of
2 limited liability companies, if the liability company is
3 treated as a partnership for purposes of federal and State
4 income taxation, there shall be allowed a credit under this
5 subsection (j) to be determined in accordance with the
6 determination of income and distributive share of income
7 under Sections 702 and 704 and subchapter S of the Internal
8 Revenue Code.

9 Any credit allowed under this subsection which is unused
10 in the year the credit is earned may be carried forward to
11 each of the 5 taxable years following the year for which the
12 credit is first computed until it is used. This credit shall
13 be applied first to the earliest year for which there is a
14 liability. If there is a credit under this subsection from
15 more than one tax year that is available to offset a
16 liability the earliest credit arising under this subsection
17 shall be applied first.

18 (k) Research and development credit.

19 Beginning with tax years ending after July 1, 1990, a
20 taxpayer shall be allowed a credit against the tax imposed by
21 subsections (a) and (b) of this Section for increasing
22 research activities in this State. The credit allowed
23 against the tax imposed by subsections (a) and (b) shall be
24 equal to 6 1/2% of the qualifying expenditures for increasing
25 research activities in this State. For partners,
26 shareholders of subchapter S corporations, and owners of
27 limited liability companies, if the liability company is
28 treated as a partnership for purposes of federal and State
29 income taxation, there shall be allowed a credit under this
30 subsection to be determined in accordance with the
31 determination of income and distributive share of income
32 under Sections 702 and 704 and subchapter S of the Internal
33 Revenue Code.

34 For purposes of this subsection, "qualifying

1 expenditures" means the qualifying expenditures as defined
2 for the federal credit for increasing research activities
3 which would be allowable under Section 41 of the Internal
4 Revenue Code and which are conducted in this State,
5 "qualifying expenditures for increasing research activities
6 in this State" means the excess of qualifying expenditures
7 for the taxable year in which incurred over qualifying
8 expenditures for the base period, "qualifying expenditures
9 for the base period" means the average of the qualifying
10 expenditures for each year in the base period, and "base
11 period" means the 3 taxable years immediately preceding the
12 taxable year for which the determination is being made.

13 Any credit in excess of the tax liability for the taxable
14 year may be carried forward. A taxpayer may elect to have the
15 unused credit shown on its final completed return carried
16 over as a credit against the tax liability for the following
17 5 taxable years or until it has been fully used, whichever
18 occurs first.

19 If an unused credit is carried forward to a given year
20 from 2 or more earlier years, that credit arising in the
21 earliest year will be applied first against the tax liability
22 for the given year. If a tax liability for the given year
23 still remains, the credit from the next earliest year will
24 then be applied, and so on, until all credits have been used
25 or no tax liability for the given year remains. Any
26 remaining unused credit or credits then will be carried
27 forward to the next following year in which a tax liability
28 is incurred, except that no credit can be carried forward to
29 a year which is more than 5 years after the year in which the
30 expense for which the credit is given was incurred.

31 Unless extended by law, the credit shall not include
32 costs incurred after December 31, 2004, except for costs
33 incurred pursuant to a binding contract entered into on or
34 before December 31, 2004.

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

4 (1) Environmental Remediation Tax Credit.

5 (i) For tax years ending after December 31, 1997
6 and on or before December 31, 2001, a taxpayer shall be
7 allowed a credit against the tax imposed by subsections
8 (a) and (b) of this Section for certain amounts paid for
9 unreimbursed eligible remediation costs, as specified in
10 this subsection. For purposes of this Section,
11 "unreimbursed eligible remediation costs" means costs
12 approved by the Illinois Environmental Protection Agency
13 ("Agency") under Section 58.14 of the Environmental
14 Protection Act that were paid in performing environmental
15 remediation at a site for which a No Further Remediation
16 Letter was issued by the Agency and recorded under
17 Section 58.10 of the Environmental Protection Act. The
18 credit must be claimed for the taxable year in which
19 Agency approval of the eligible remediation costs is
20 granted. The credit is not available to any taxpayer if
21 the taxpayer or any related party caused or contributed
22 to, in any material respect, a release of regulated
23 substances on, in, or under the site that was identified
24 and addressed by the remedial action pursuant to the Site
25 Remediation Program of the Environmental Protection Act.
26 After the Pollution Control Board rules are adopted
27 pursuant to the Illinois Administrative Procedure Act for
28 the administration and enforcement of Section 58.9 of the
29 Environmental Protection Act, determinations as to credit
30 availability for purposes of this Section shall be made
31 consistent with those rules. For purposes of this
32 Section, "taxpayer" includes a person whose tax
33 attributes the taxpayer has succeeded to under Section
34 381 of the Internal Revenue Code and "related party"

1 includes the persons disallowed a deduction for losses by
2 paragraphs (b), (c), and (f)(1) of Section 267 of the
3 Internal Revenue Code by virtue of being a related
4 taxpayer, as well as any of its partners. The credit
5 allowed against the tax imposed by subsections (a) and
6 (b) shall be equal to 25% of the unreimbursed eligible
7 remediation costs in excess of \$100,000 per site, except
8 that the \$100,000 threshold shall not apply to any site
9 contained in an enterprise zone as determined by the
10 Department of Commerce and Community Affairs. The total
11 credit allowed shall not exceed \$40,000 per year with a
12 maximum total of \$150,000 per site. For partners and
13 shareholders of subchapter S corporations, there shall be
14 allowed a credit under this subsection to be determined
15 in accordance with the determination of income and
16 distributive share of income under Sections 702 and 704
17 and subchapter S of the Internal Revenue Code.

18 (ii) A credit allowed under this subsection that is
19 unused in the year the credit is earned may be carried
20 forward to each of the 5 taxable years following the year
21 for which the credit is first earned until it is used.
22 The term "unused credit" does not include any amounts of
23 unreimbursed eligible remediation costs in excess of the
24 maximum credit per site authorized under paragraph (i).
25 This credit shall be applied first to the earliest year
26 for which there is a liability. If there is a credit
27 under this subsection from more than one tax year that is
28 available to offset a liability, the earliest credit
29 arising under this subsection shall be applied first. A
30 credit allowed under this subsection may be sold to a
31 buyer as part of a sale of all or part of the remediation
32 site for which the credit was granted. The purchaser of
33 a remediation site and the tax credit shall succeed to
34 the unused credit and remaining carry-forward period of

1 the seller. To perfect the transfer, the assignor shall
 2 record the transfer in the chain of title for the site
 3 and provide written notice to the Director of the
 4 Illinois Department of Revenue of the assignor's intent
 5 to sell the remediation site and the amount of the tax
 6 credit to be transferred as a portion of the sale. In no
 7 event may a credit be transferred to any taxpayer if the
 8 taxpayer or a related party would not be eligible under
 9 the provisions of subsection (i).

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

13 (m) Education expense credit.

14 Beginning with tax years ending after December 31, 1999,
 15 a taxpayer who is the custodian of one or more qualifying
 16 pupils shall be allowed a credit against the tax imposed by
 17 subsections (a) and (b) of this Section for qualified
 18 education expenses incurred on behalf of the qualifying
 19 pupils. The credit shall be equal to 25% of qualified
 20 education expenses, but in no event may the total credit
 21 under this subsection Section claimed by a family that is the
 22 custodian of qualifying pupils exceed \$500. In no event
 23 shall a credit under this subsection reduce the taxpayer's
 24 liability under this Act to less than zero. This subsection
 25 is exempt from the provisions of Section 250 of this Act.

26 For purposes of this subsection:†

27 "Qualifying pupils" means individuals who (i) are
 28 residents of the State of Illinois, (ii) are under the age of
 29 21 at the close of the school year for which a credit is
 30 sought, and (iii) during the school year for which a credit
 31 is sought were full-time pupils enrolled in a kindergarten
 32 through twelfth grade education program at any school, as
 33 defined in this subsection.

34 "Qualified education expense" means the amount incurred

1 on behalf of a qualifying pupil in excess of \$250 for
2 tuition, book fees, and lab fees at the school in which the
3 pupil is enrolled during the regular school year.

4 "School" means any public or nonpublic elementary or
5 secondary school in Illinois that is in compliance with Title
6 VI of the Civil Rights Act of 1964 and attendance at which
7 satisfies the requirements of Section 26-1 of the School
8 Code, except that nothing shall be construed to require a
9 child to attend any particular public or nonpublic school to
10 qualify for the credit under this Section.

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

14 (Source: P.A. 91-9, eff. 1-1-00; 91-357, eff. 7-29-99;
15 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860, eff.
16 6-22-00; 91-913, eff. 1-1-01; 92-12, eff. 7-1-01; 92-16, eff.
17 6-28-01; revised 12-3-01.)

18 (35 ILCS 5/202) (from Ch. 120, par. 2-202)

19 Sec. 202. Net Income Defined. In general. For purposes of
20 this Act, a taxpayer's net income for a taxable year shall be
21 that portion of his base income for such year ~~except money~~
22 ~~and other benefits, other than salary, received by a driver~~
23 ~~in a ridesharing arrangement using a motor vehicle,~~ which is
24 allocable to this State under the provisions of Article 3,
25 less the standard exemption allowed by Section 204 and the
26 deduction allowed by Section 207.

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

28 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

29 Sec. 203. Base income defined.

30 (a) Individuals.

31 (1) In general. In the case of an individual, base
32 income means an amount equal to the taxpayer's adjusted

1 gross income for the taxable year as modified by
2 paragraph (2).

3 (2) Modifications. The adjusted gross income
4 referred to in paragraph (1) shall be modified by adding
5 thereto the sum of the following amounts:

6 (A) An amount equal to all amounts paid or
7 accrued to the taxpayer as interest or dividends
8 during the taxable year to the extent excluded from
9 gross income in the computation of adjusted gross
10 income, except stock dividends of qualified public
11 utilities described in Section 305(e) of the
12 Internal Revenue Code;

13 (B) An amount equal to the amount of tax
14 imposed by this Act to the extent deducted from
15 gross income in the computation of adjusted gross
16 income for the taxable year;

17 (C) An amount equal to the amount received
18 during the taxable year as a recovery or refund of
19 real property taxes paid with respect to the
20 taxpayer's principal residence under the Revenue Act
21 of 1939 and for which a deduction was previously
22 taken under subparagraph (L) of this paragraph (2)
23 prior to July 1, 1991, the retrospective application
24 date of Article 4 of Public Act 87-17. In the case
25 of multi-unit or multi-use structures and farm
26 dwellings, the taxes on the taxpayer's principal
27 residence shall be that portion of the total taxes
28 for the entire property which is attributable to
29 such principal residence;

30 (D) An amount equal to the amount of the
31 capital gain deduction allowable under the Internal
32 Revenue Code, to the extent deducted from gross
33 income in the computation of adjusted gross income;

34 (D-5) An amount, to the extent not included in

1 adjusted gross income, equal to the amount of money
2 withdrawn by the taxpayer in the taxable year from a
3 medical care savings account and the interest earned
4 on the account in the taxable year of a withdrawal
5 pursuant to subsection (b) of Section 20 of the
6 Medical Care Savings Account Act or subsection (b)
7 of Section 20 of the Medical Care Savings Account
8 Act of 2000; and

9 (D-10) For taxable years ending after December
10 31, 1997, an amount equal to any eligible
11 remediation costs that the individual deducted in
12 computing adjusted gross income and for which the
13 individual claims a credit under subsection (l) of
14 Section 201;

15 and by deducting from the total so obtained the sum of
16 the following amounts:

17 (E) For taxable years ending before December
18 31, 2001, any amount included in such total in
19 respect of any compensation (including but not
20 limited to any compensation paid or accrued to a
21 serviceman while a prisoner of war or missing in
22 action) paid to a resident by reason of being on
23 active duty in the Armed Forces of the United States
24 and in respect of any compensation paid or accrued
25 to a resident who as a governmental employee was a
26 prisoner of war or missing in action, and in respect
27 of any compensation paid to a resident in 1971 or
28 thereafter for annual training performed pursuant to
29 Sections 502 and 503, Title 32, United States Code
30 as a member of the Illinois National Guard. For
31 taxable years ending on or after December 31, 2001,
32 any amount included in such total in respect of any
33 compensation (including but not limited to any
34 compensation paid or accrued to a serviceman while a

1 prisoner of war or missing in action) paid to a
2 resident by reason of being a member of any
3 component of the Armed Forces of the United States
4 and in respect of any compensation paid or accrued
5 to a resident who as a governmental employee was a
6 prisoner of war or missing in action, and in respect
7 of any compensation paid to a resident in 2001 or
8 thereafter by reason of being a member of the
9 Illinois National Guard. The provisions of this
10 amendatory Act of the 92nd General Assembly are
11 exempt from the provisions of Section 250;

12 (F) An amount equal to all amounts included in
13 such total pursuant to the provisions of Sections
14 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and
15 408 of the Internal Revenue Code, or included in
16 such total as distributions under the provisions of
17 any retirement or disability plan for employees of
18 any governmental agency or unit, or retirement
19 payments to retired partners, which payments are
20 excluded in computing net earnings from self
21 employment by Section 1402 of the Internal Revenue
22 Code and regulations adopted pursuant thereto;

23 (G) The valuation limitation amount;

24 (H) An amount equal to the amount of any tax
25 imposed by this Act which was refunded to the
26 taxpayer and included in such total for the taxable
27 year;

28 (I) An amount equal to all amounts included in
29 such total pursuant to the provisions of Section 111
30 of the Internal Revenue Code as a recovery of items
31 previously deducted from adjusted gross income in
32 the computation of taxable income;

33 (J) An amount equal to those dividends
34 included in such total which were paid by a

1 corporation which conducts business operations in an
2 Enterprise Zone or zones created under the Illinois
3 Enterprise Zone Act, and conducts substantially all
4 of its operations in an Enterprise Zone or zones;

5 (K) An amount equal to those dividends
6 included in such total that were paid by a
7 corporation that conducts business operations in a
8 federally designated Foreign Trade Zone or Sub-Zone
9 and that is designated a High Impact Business
10 located in Illinois; provided that dividends
11 eligible for the deduction provided in subparagraph
12 (J) of paragraph (2) of this subsection shall not be
13 eligible for the deduction provided under this
14 subparagraph (K);

15 (L) For taxable years ending after December
16 31, 1983, an amount equal to all social security
17 benefits and railroad retirement benefits included
18 in such total pursuant to Sections 72(r) and 86 of
19 the Internal Revenue Code;

20 (M) With the exception of any amounts
21 subtracted under subparagraph (N), an amount equal
22 to the sum of all amounts disallowed as deductions
23 by (i) Sections 171(a) (2), and 265(2) of the
24 Internal Revenue Code of 1954, as now or hereafter
25 amended, and all amounts of expenses allocable to
26 interest and disallowed as deductions by Section
27 265(1) of the Internal Revenue Code of 1954, as now
28 or hereafter amended; and (ii) for taxable years
29 ending on or after August 13, 1999, Sections
30 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
31 Internal Revenue Code; the provisions of this
32 subparagraph are exempt from the provisions of
33 Section 250;

34 (N) An amount equal to all amounts included in

1 such total which are exempt from taxation by this
2 State either by reason of its statutes or
3 Constitution or by reason of the Constitution,
4 treaties or statutes of the United States; provided
5 that, in the case of any statute of this State that
6 exempts income derived from bonds or other
7 obligations from the tax imposed under this Act, the
8 amount exempted shall be the interest net of bond
9 premium amortization;

10 (O) An amount equal to any contribution made
11 to a job training project established pursuant to
12 the Tax Increment Allocation Redevelopment Act;

13 (P) An amount equal to the amount of the
14 deduction used to compute the federal income tax
15 credit for restoration of substantial amounts held
16 under claim of right for the taxable year pursuant
17 to Section 1341 of the Internal Revenue Code of
18 1986;

19 (Q) An amount equal to any amounts included in
20 such total, received by the taxpayer as an
21 acceleration in the payment of life, endowment or
22 annuity benefits in advance of the time they would
23 otherwise be payable as an indemnity for a terminal
24 illness;

25 (R) An amount equal to the amount of any
26 federal or State bonus paid to veterans of the
27 Persian Gulf War;

28 (S) An amount, to the extent included in
29 adjusted gross income, equal to the amount of a
30 contribution made in the taxable year on behalf of
31 the taxpayer to a medical care savings account
32 established under the Medical Care Savings Account
33 Act or the Medical Care Savings Account Act of 2000
34 to the extent the contribution is accepted by the

1 account administrator as provided in that Act;

2 (T) An amount, to the extent included in
3 adjusted gross income, equal to the amount of
4 interest earned in the taxable year on a medical
5 care savings account established under the Medical
6 Care Savings Account Act or the Medical Care Savings
7 Account Act of 2000 on behalf of the taxpayer, other
8 than interest added pursuant to item (D-5) of this
9 paragraph (2);

10 (U) For one taxable year beginning on or after
11 January 1, 1994, an amount equal to the total amount
12 of tax imposed and paid under subsections (a) and
13 (b) of Section 201 of this Act on grant amounts
14 received by the taxpayer under the Nursing Home
15 Grant Assistance Act during the taxpayer's taxable
16 years 1992 and 1993;

17 (V) Beginning with tax years ending on or
18 after December 31, 1995 and ending with tax years
19 ending on or before December 31, 2004, an amount
20 equal to the amount paid by a taxpayer who is a
21 self-employed taxpayer, a partner of a partnership,
22 or a shareholder in a Subchapter S corporation for
23 health insurance or long-term care insurance for
24 that taxpayer or that taxpayer's spouse or
25 dependents, to the extent that the amount paid for
26 that health insurance or long-term care insurance
27 may be deducted under Section 213 of the Internal
28 Revenue Code of 1986, has not been deducted on the
29 federal income tax return of the taxpayer, and does
30 not exceed the taxable income attributable to that
31 taxpayer's income, self-employment income, or
32 Subchapter S corporation income; except that no
33 deduction shall be allowed under this item (V) if
34 the taxpayer is eligible to participate in any

1 health insurance or long-term care insurance plan of
2 an employer of the taxpayer or the taxpayer's
3 spouse. The amount of the health insurance and
4 long-term care insurance subtracted under this item
5 (V) shall be determined by multiplying total health
6 insurance and long-term care insurance premiums paid
7 by the taxpayer times a number that represents the
8 fractional percentage of eligible medical expenses
9 under Section 213 of the Internal Revenue Code of
10 1986 not actually deducted on the taxpayer's federal
11 income tax return;

12 (W) For taxable years beginning on or after
13 January 1, 1998, all amounts included in the
14 taxpayer's federal gross income in the taxable year
15 from amounts converted from a regular IRA to a Roth
16 IRA. This paragraph is exempt from the provisions of
17 Section 250;

18 (X) For taxable year 1999 and thereafter, an
19 amount equal to the amount of any (i) distributions,
20 to the extent includible in gross income for federal
21 income tax purposes, made to the taxpayer because of
22 his or her status as a victim of persecution for
23 racial or religious reasons by Nazi Germany or any
24 other Axis regime or as an heir of the victim and
25 (ii) items of income, to the extent includible in
26 gross income for federal income tax purposes,
27 attributable to, derived from or in any way related
28 to assets stolen from, hidden from, or otherwise
29 lost to a victim of persecution for racial or
30 religious reasons by Nazi Germany or any other Axis
31 regime immediately prior to, during, and immediately
32 after World War II, including, but not limited to,
33 interest on the proceeds receivable as insurance
34 under policies issued to a victim of persecution for

1 racial or religious reasons by Nazi Germany or any
2 other Axis regime by European insurance companies
3 immediately prior to and during World War II;
4 provided, however, this subtraction from federal
5 adjusted gross income does not apply to assets
6 acquired with such assets or with the proceeds from
7 the sale of such assets; provided, further, this
8 paragraph shall only apply to a taxpayer who was the
9 first recipient of such assets after their recovery
10 and who is a victim of persecution for racial or
11 religious reasons by Nazi Germany or any other Axis
12 regime or as an heir of the victim. The amount of
13 and the eligibility for any public assistance,
14 benefit, or similar entitlement is not affected by
15 the inclusion of items (i) and (ii) of this
16 paragraph in gross income for federal income tax
17 purposes. This paragraph is exempt from the
18 provisions of Section 250; and

19 (Y) For taxable years beginning on or after
20 January 1, 2002, moneys contributed in the taxable
21 year to a College Savings Pool account under Section
22 16.5 of the State Treasurer Act. This subparagraph
23 (Y) is exempt from the provisions of Section 250;
24 and

25 (Z) Any amount included in adjusted gross
26 income, other than salary, received by a driver in a
27 ridesharing arrangement using a motor vehicle.

28 (b) Corporations.

29 (1) In general. In the case of a corporation, base
30 income means an amount equal to the taxpayer's taxable
31 income for the taxable year as modified by paragraph (2).

32 (2) Modifications. The taxable income referred to
33 in paragraph (1) shall be modified by adding thereto the
34 sum of the following amounts:

1 (A) An amount equal to all amounts paid or
2 accrued to the taxpayer as interest and all
3 distributions received from regulated investment
4 companies during the taxable year to the extent
5 excluded from gross income in the computation of
6 taxable income;

7 (B) An amount equal to the amount of tax
8 imposed by this Act to the extent deducted from
9 gross income in the computation of taxable income
10 for the taxable year;

11 (C) In the case of a regulated investment
12 company, an amount equal to the excess of (i) the
13 net long-term capital gain for the taxable year,
14 over (ii) the amount of the capital gain dividends
15 designated as such in accordance with Section
16 852(b)(3)(C) of the Internal Revenue Code and any
17 amount designated under Section 852(b)(3)(D) of the
18 Internal Revenue Code, attributable to the taxable
19 year (this amendatory Act of 1995 (Public Act 89-89)
20 is declarative of existing law and is not a new
21 enactment);

22 (D) The amount of any net operating loss
23 deduction taken in arriving at taxable income, other
24 than a net operating loss carried forward from a
25 taxable year ending prior to December 31, 1986;

26 (E) For taxable years in which a net operating
27 loss carryback or carryforward from a taxable year
28 ending prior to December 31, 1986 is an element of
29 taxable income under paragraph (1) of subsection (e)
30 or subparagraph (E) of paragraph (2) of subsection
31 (e), the amount by which addition modifications
32 other than those provided by this subparagraph (E)
33 exceeded subtraction modifications in such earlier
34 taxable year, with the following limitations applied

1 in the order that they are listed:

2 (i) the addition modification relating to
3 the net operating loss carried back or forward
4 to the taxable year from any taxable year
5 ending prior to December 31, 1986 shall be
6 reduced by the amount of addition modification
7 under this subparagraph (E) which related to
8 that net operating loss and which was taken
9 into account in calculating the base income of
10 an earlier taxable year, and

11 (ii) the addition modification relating
12 to the net operating loss carried back or
13 forward to the taxable year from any taxable
14 year ending prior to December 31, 1986 shall
15 not exceed the amount of such carryback or
16 carryforward;

17 For taxable years in which there is a net
18 operating loss carryback or carryforward from more
19 than one other taxable year ending prior to December
20 31, 1986, the addition modification provided in this
21 subparagraph (E) shall be the sum of the amounts
22 computed independently under the preceding
23 provisions of this subparagraph (E) for each such
24 taxable year; and

25 (E-5) For taxable years ending after December
26 31, 1997, an amount equal to any eligible
27 remediation costs that the corporation deducted in
28 computing adjusted gross income and for which the
29 corporation claims a credit under subsection (l) of
30 Section 201;

31 and by deducting from the total so obtained the sum of
32 the following amounts:

33 (F) An amount equal to the amount of any tax
34 imposed by this Act which was refunded to the

1 taxpayer and included in such total for the taxable
2 year;

3 (G) An amount equal to any amount included in
4 such total under Section 78 of the Internal Revenue
5 Code;

6 (H) In the case of a regulated investment
7 company, an amount equal to the amount of exempt
8 interest dividends as defined in subsection (b) (5)
9 of Section 852 of the Internal Revenue Code, paid to
10 shareholders for the taxable year;

11 (I) With the exception of any amounts
12 subtracted under subparagraph (J), an amount equal
13 to the sum of all amounts disallowed as deductions
14 by (i) Sections 171(a) (2), and 265(a)(2) and
15 amounts disallowed as interest expense by Section
16 291(a)(3) of the Internal Revenue Code, as now or
17 hereafter amended, and all amounts of expenses
18 allocable to interest and disallowed as deductions
19 by Section 265(a)(1) of the Internal Revenue Code,
20 as now or hereafter amended; and (ii) for taxable
21 years ending on or after August 13, 1999, Sections
22 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i)
23 of the Internal Revenue Code; the provisions of this
24 subparagraph are exempt from the provisions of
25 Section 250;

26 (J) An amount equal to all amounts included in
27 such total which are exempt from taxation by this
28 State either by reason of its statutes or
29 Constitution or by reason of the Constitution,
30 treaties or statutes of the United States; provided
31 that, in the case of any statute of this State that
32 exempts income derived from bonds or other
33 obligations from the tax imposed under this Act, the
34 amount exempted shall be the interest net of bond

1 premium amortization;

2 (K) An amount equal to those dividends
3 included in such total which were paid by a
4 corporation which conducts business operations in an
5 Enterprise Zone or zones created under the Illinois
6 Enterprise Zone Act and conducts substantially all
7 of its operations in an Enterprise Zone or zones;

8 (L) An amount equal to those dividends
9 included in such total that were paid by a
10 corporation that conducts business operations in a
11 federally designated Foreign Trade Zone or Sub-Zone
12 and that is designated a High Impact Business
13 located in Illinois; provided that dividends
14 eligible for the deduction provided in subparagraph
15 (K) of paragraph 2 of this subsection shall not be
16 eligible for the deduction provided under this
17 subparagraph (L);

18 (M) For any taxpayer that is a financial
19 organization within the meaning of Section 304(c) of
20 this Act, an amount included in such total as
21 interest income from a loan or loans made by such
22 taxpayer to a borrower, to the extent that such a
23 loan is secured by property which is eligible for
24 the Enterprise Zone Investment Credit. To determine
25 the portion of a loan or loans that is secured by
26 property eligible for a Section 201(f) investment
27 credit to the borrower, the entire principal amount
28 of the loan or loans between the taxpayer and the
29 borrower should be divided into the basis of the
30 Section 201(f) investment credit property which
31 secures the loan or loans, using for this purpose
32 the original basis of such property on the date that
33 it was placed in service in the Enterprise Zone.
34 The subtraction modification available to taxpayer

1 in any year under this subsection shall be that
2 portion of the total interest paid by the borrower
3 with respect to such loan attributable to the
4 eligible property as calculated under the previous
5 sentence;

6 (M-1) For any taxpayer that is a financial
7 organization within the meaning of Section 304(c) of
8 this Act, an amount included in such total as
9 interest income from a loan or loans made by such
10 taxpayer to a borrower, to the extent that such a
11 loan is secured by property which is eligible for
12 the High Impact Business Investment Credit. To
13 determine the portion of a loan or loans that is
14 secured by property eligible for a Section 201(h)
15 investment credit to the borrower, the entire
16 principal amount of the loan or loans between the
17 taxpayer and the borrower should be divided into the
18 basis of the Section 201(h) investment credit
19 property which secures the loan or loans, using for
20 this purpose the original basis of such property on
21 the date that it was placed in service in a
22 federally designated Foreign Trade Zone or Sub-Zone
23 located in Illinois. No taxpayer that is eligible
24 for the deduction provided in subparagraph (M) of
25 paragraph (2) of this subsection shall be eligible
26 for the deduction provided under this subparagraph
27 (M-1). The subtraction modification available to
28 taxpayers in any year under this subsection shall be
29 that portion of the total interest paid by the
30 borrower with respect to such loan attributable to
31 the eligible property as calculated under the
32 previous sentence;

33 (N) Two times any contribution made during the
34 taxable year to a designated zone organization to

1 the extent that the contribution (i) qualifies as a
2 charitable contribution under subsection (c) of
3 Section 170 of the Internal Revenue Code and (ii)
4 must, by its terms, be used for a project approved
5 by the Department of Commerce and Community Affairs
6 under Section 11 of the Illinois Enterprise Zone
7 Act;

8 (O) An amount equal to: (i) 85% for taxable
9 years ending on or before December 31, 1992, or, a
10 percentage equal to the percentage allowable under
11 Section 243(a)(1) of the Internal Revenue Code of
12 1986 for taxable years ending after December 31,
13 1992, of the amount by which dividends included in
14 taxable income and received from a corporation that
15 is not created or organized under the laws of the
16 United States or any state or political subdivision
17 thereof, including, for taxable years ending on or
18 after December 31, 1988, dividends received or
19 deemed received or paid or deemed paid under
20 Sections 951 through 964 of the Internal Revenue
21 Code, exceed the amount of the modification provided
22 under subparagraph (G) of paragraph (2) of this
23 subsection (b) which is related to such dividends;
24 plus (ii) 100% of the amount by which dividends,
25 included in taxable income and received, including,
26 for taxable years ending on or after December 31,
27 1988, dividends received or deemed received or paid
28 or deemed paid under Sections 951 through 964 of the
29 Internal Revenue Code, from any such corporation
30 specified in clause (i) that would but for the
31 provisions of Section 1504 (b) (3) of the Internal
32 Revenue Code be treated as a member of the
33 affiliated group which includes the dividend
34 recipient, exceed the amount of the modification

1 provided under subparagraph (G) of paragraph (2) of
2 this subsection (b) which is related to such
3 dividends;

4 (P) An amount equal to any contribution made
5 to a job training project established pursuant to
6 the Tax Increment Allocation Redevelopment Act;

7 (Q) An amount equal to the amount of the
8 deduction used to compute the federal income tax
9 credit for restoration of substantial amounts held
10 under claim of right for the taxable year pursuant
11 to Section 1341 of the Internal Revenue Code of
12 1986;

13 (R) In the case of an attorney-in-fact with
14 respect to whom an interinsurer or a reciprocal
15 insurer has made the election under Section 835 of
16 the Internal Revenue Code, 26 U.S.C. 835, an amount
17 equal to the excess, if any, of the amounts paid or
18 incurred by that interinsurer or reciprocal insurer
19 in the taxable year to the attorney-in-fact over the
20 deduction allowed to that interinsurer or reciprocal
21 insurer with respect to the attorney-in-fact under
22 Section 835(b) of the Internal Revenue Code for the
23 taxable year; and

24 (S) For taxable years ending on or after
25 December 31, 1997, in the case of a Subchapter S
26 corporation, an amount equal to all amounts of
27 income allocable to a shareholder subject to the
28 Personal Property Tax Replacement Income Tax imposed
29 by subsections (c) and (d) of Section 201 of this
30 Act, including amounts allocable to organizations
31 exempt from federal income tax by reason of Section
32 501(a) of the Internal Revenue Code. This
33 subparagraph (S) is exempt from the provisions of
34 Section 250.

1 (3) Special rule. For purposes of paragraph (2)
2 (A), "gross income" in the case of a life insurance
3 company, for tax years ending on and after December 31,
4 1994, shall mean the gross investment income for the
5 taxable year.

6 (c) Trusts and estates.

7 (1) In general. In the case of a trust or estate,
8 base income means an amount equal to the taxpayer's
9 taxable income for the taxable year as modified by
10 paragraph (2).

11 (2) Modifications. Subject to the provisions of
12 paragraph (3), the taxable income referred to in
13 paragraph (1) shall be modified by adding thereto the sum
14 of the following amounts:

15 (A) An amount equal to all amounts paid or
16 accrued to the taxpayer as interest or dividends
17 during the taxable year to the extent excluded from
18 gross income in the computation of taxable income;

19 (B) In the case of (i) an estate, \$600; (ii) a
20 trust which, under its governing instrument, is
21 required to distribute all of its income currently,
22 \$300; and (iii) any other trust, \$100, but in each
23 such case, only to the extent such amount was
24 deducted in the computation of taxable income;

25 (C) An amount equal to the amount of tax
26 imposed by this Act to the extent deducted from
27 gross income in the computation of taxable income
28 for the taxable year;

29 (D) The amount of any net operating loss
30 deduction taken in arriving at taxable income, other
31 than a net operating loss carried forward from a
32 taxable year ending prior to December 31, 1986;

33 (E) For taxable years in which a net operating
34 loss carryback or carryforward from a taxable year

1 ending prior to December 31, 1986 is an element of
2 taxable income under paragraph (1) of subsection (e)
3 or subparagraph (E) of paragraph (2) of subsection
4 (e), the amount by which addition modifications
5 other than those provided by this subparagraph (E)
6 exceeded subtraction modifications in such taxable
7 year, with the following limitations applied in the
8 order that they are listed:

9 (i) the addition modification relating to
10 the net operating loss carried back or forward
11 to the taxable year from any taxable year
12 ending prior to December 31, 1986 shall be
13 reduced by the amount of addition modification
14 under this subparagraph (E) which related to
15 that net operating loss and which was taken
16 into account in calculating the base income of
17 an earlier taxable year, and

18 (ii) the addition modification relating
19 to the net operating loss carried back or
20 forward to the taxable year from any taxable
21 year ending prior to December 31, 1986 shall
22 not exceed the amount of such carryback or
23 carryforward;

24 For taxable years in which there is a net
25 operating loss carryback or carryforward from more
26 than one other taxable year ending prior to December
27 31, 1986, the addition modification provided in this
28 subparagraph (E) shall be the sum of the amounts
29 computed independently under the preceding
30 provisions of this subparagraph (E) for each such
31 taxable year;

32 (F) For taxable years ending on or after
33 January 1, 1989, an amount equal to the tax deducted
34 pursuant to Section 164 of the Internal Revenue Code

1 if the trust or estate is claiming the same tax for
2 purposes of the Illinois foreign tax credit under
3 Section 601 of this Act;

4 (G) An amount equal to the amount of the
5 capital gain deduction allowable under the Internal
6 Revenue Code, to the extent deducted from gross
7 income in the computation of taxable income; and

8 (G-5) For taxable years ending after December
9 31, 1997, an amount equal to any eligible
10 remediation costs that the trust or estate deducted
11 in computing adjusted gross income and for which the
12 trust or estate claims a credit under subsection (l)
13 of Section 201;

14 and by deducting from the total so obtained the sum of
15 the following amounts:

16 (H) An amount equal to all amounts included in
17 such total pursuant to the provisions of Sections
18 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and
19 408 of the Internal Revenue Code or included in such
20 total as distributions under the provisions of any
21 retirement or disability plan for employees of any
22 governmental agency or unit, or retirement payments
23 to retired partners, which payments are excluded in
24 computing net earnings from self employment by
25 Section 1402 of the Internal Revenue Code and
26 regulations adopted pursuant thereto;

27 (I) The valuation limitation amount;

28 (J) An amount equal to the amount of any tax
29 imposed by this Act which was refunded to the
30 taxpayer and included in such total for the taxable
31 year;

32 (K) An amount equal to all amounts included in
33 taxable income as modified by subparagraphs (A),
34 (B), (C), (D), (E), (F) and (G) which are exempt

1 from taxation by this State either by reason of its
2 statutes or Constitution or by reason of the
3 Constitution, treaties or statutes of the United
4 States; provided that, in the case of any statute of
5 this State that exempts income derived from bonds or
6 other obligations from the tax imposed under this
7 Act, the amount exempted shall be the interest net
8 of bond premium amortization;

9 (L) With the exception of any amounts
10 subtracted under subparagraph (K), an amount equal
11 to the sum of all amounts disallowed as deductions
12 by (i) Sections 171(a) (2) and 265(a)(2) of the
13 Internal Revenue Code, as now or hereafter amended,
14 and all amounts of expenses allocable to interest
15 and disallowed as deductions by Section 265(1) of
16 the Internal Revenue Code of 1954, as now or
17 hereafter amended; and (ii) for taxable years ending
18 on or after August 13, 1999, Sections 171(a)(2),
19 265, 280C, and 832(b)(5)(B)(i) of the Internal
20 Revenue Code; the provisions of this subparagraph
21 are exempt from the provisions of Section 250;

22 (M) An amount equal to those dividends
23 included in such total which were paid by a
24 corporation which conducts business operations in an
25 Enterprise Zone or zones created under the Illinois
26 Enterprise Zone Act and conducts substantially all
27 of its operations in an Enterprise Zone or Zones;

28 (N) An amount equal to any contribution made
29 to a job training project established pursuant to
30 the Tax Increment Allocation Redevelopment Act;

31 (O) An amount equal to those dividends
32 included in such total that were paid by a
33 corporation that conducts business operations in a
34 federally designated Foreign Trade Zone or Sub-Zone

1 and that is designated a High Impact Business
2 located in Illinois; provided that dividends
3 eligible for the deduction provided in subparagraph
4 (M) of paragraph (2) of this subsection shall not be
5 eligible for the deduction provided under this
6 subparagraph (O);

7 (P) An amount equal to the amount of the
8 deduction used to compute the federal income tax
9 credit for restoration of substantial amounts held
10 under claim of right for the taxable year pursuant
11 to Section 1341 of the Internal Revenue Code of
12 1986; and

13 (Q) For taxable year 1999 and thereafter, an
14 amount equal to the amount of any (i) distributions,
15 to the extent includible in gross income for federal
16 income tax purposes, made to the taxpayer because of
17 his or her status as a victim of persecution for
18 racial or religious reasons by Nazi Germany or any
19 other Axis regime or as an heir of the victim and
20 (ii) items of income, to the extent includible in
21 gross income for federal income tax purposes,
22 attributable to, derived from or in any way related
23 to assets stolen from, hidden from, or otherwise
24 lost to a victim of persecution for racial or
25 religious reasons by Nazi Germany or any other Axis
26 regime immediately prior to, during, and immediately
27 after World War II, including, but not limited to,
28 interest on the proceeds receivable as insurance
29 under policies issued to a victim of persecution for
30 racial or religious reasons by Nazi Germany or any
31 other Axis regime by European insurance companies
32 immediately prior to and during World War II;
33 provided, however, this subtraction from federal
34 adjusted gross income does not apply to assets

1 acquired with such assets or with the proceeds from
2 the sale of such assets; provided, further, this
3 paragraph shall only apply to a taxpayer who was the
4 first recipient of such assets after their recovery
5 and who is a victim of persecution for racial or
6 religious reasons by Nazi Germany or any other Axis
7 regime or as an heir of the victim. The amount of
8 and the eligibility for any public assistance,
9 benefit, or similar entitlement is not affected by
10 the inclusion of items (i) and (ii) of this
11 paragraph in gross income for federal income tax
12 purposes. This paragraph is exempt from the
13 provisions of Section 250.

14 (3) Limitation. The amount of any modification
15 otherwise required under this subsection shall, under
16 regulations prescribed by the Department, be adjusted by
17 any amounts included therein which were properly paid,
18 credited, or required to be distributed, or permanently
19 set aside for charitable purposes pursuant to Internal
20 Revenue Code Section 642(c) during the taxable year.

21 (d) Partnerships.

22 (1) In general. In the case of a partnership, base
23 income means an amount equal to the taxpayer's taxable
24 income for the taxable year as modified by paragraph (2).

25 (2) Modifications. The taxable income referred to
26 in paragraph (1) shall be modified by adding thereto the
27 sum of the following amounts:

28 (A) An amount equal to all amounts paid or
29 accrued to the taxpayer as interest or dividends
30 during the taxable year to the extent excluded from
31 gross income in the computation of taxable income;

32 (B) An amount equal to the amount of tax
33 imposed by this Act to the extent deducted from
34 gross income for the taxable year;

1 (C) The amount of deductions allowed to the
2 partnership pursuant to Section 707 (c) of the
3 Internal Revenue Code in calculating its taxable
4 income; and

5 (D) An amount equal to the amount of the
6 capital gain deduction allowable under the Internal
7 Revenue Code, to the extent deducted from gross
8 income in the computation of taxable income;

9 and by deducting from the total so obtained the following
10 amounts:

11 (E) The valuation limitation amount;

12 (F) An amount equal to the amount of any tax
13 imposed by this Act which was refunded to the
14 taxpayer and included in such total for the taxable
15 year;

16 (G) An amount equal to all amounts included in
17 taxable income as modified by subparagraphs (A),
18 (B), (C) and (D) which are exempt from taxation by
19 this State either by reason of its statutes or
20 Constitution or by reason of the Constitution,
21 treaties or statutes of the United States; provided
22 that, in the case of any statute of this State that
23 exempts income derived from bonds or other
24 obligations from the tax imposed under this Act, the
25 amount exempted shall be the interest net of bond
26 premium amortization;

27 (H) Any income of the partnership which
28 constitutes personal service income as defined in
29 Section 1348 (b) (1) of the Internal Revenue Code
30 (as in effect December 31, 1981) or a reasonable
31 allowance for compensation paid or accrued for
32 services rendered by partners to the partnership,
33 whichever is greater;

34 (I) An amount equal to all amounts of income

1 distributable to an entity subject to the Personal
2 Property Tax Replacement Income Tax imposed by
3 subsections (c) and (d) of Section 201 of this Act
4 including amounts distributable to organizations
5 exempt from federal income tax by reason of Section
6 501(a) of the Internal Revenue Code;

7 (J) With the exception of any amounts
8 subtracted under subparagraph (G), an amount equal
9 to the sum of all amounts disallowed as deductions
10 by (i) Sections 171(a) (2), and 265(2) of the
11 Internal Revenue Code of 1954, as now or hereafter
12 amended, and all amounts of expenses allocable to
13 interest and disallowed as deductions by Section
14 265(1) of the Internal Revenue Code, as now or
15 hereafter amended; and (ii) for taxable years ending
16 on or after August 13, 1999, Sections 171(a)(2),
17 265, 280C, and 832(b)(5)(B)(i) of the Internal
18 Revenue Code; the provisions of this subparagraph
19 are exempt from the provisions of Section 250;

20 (K) An amount equal to those dividends
21 included in such total which were paid by a
22 corporation which conducts business operations in an
23 Enterprise Zone or zones created under the Illinois
24 Enterprise Zone Act, enacted by the 82nd General
25 Assembly, and conducts substantially all of its
26 operations ~~which does not conduct such operations~~
27 ~~other than~~ in an Enterprise Zone or Zones;

28 (L) An amount equal to any contribution made
29 to a job training project established pursuant to
30 the Real Property Tax Increment Allocation
31 Redevelopment Act;

32 (M) An amount equal to those dividends
33 included in such total that were paid by a
34 corporation that conducts business operations in a

1 federally designated Foreign Trade Zone or Sub-Zone
2 and that is designated a High Impact Business
3 located in Illinois; provided that dividends
4 eligible for the deduction provided in subparagraph
5 (K) of paragraph (2) of this subsection shall not be
6 eligible for the deduction provided under this
7 subparagraph (M); and

8 (N) An amount equal to the amount of the
9 deduction used to compute the federal income tax
10 credit for restoration of substantial amounts held
11 under claim of right for the taxable year pursuant
12 to Section 1341 of the Internal Revenue Code of
13 1986.

14 (e) Gross income; adjusted gross income; taxable income.

15 (1) In general. Subject to the provisions of
16 paragraph (2) and subsection (b) (3), for purposes of
17 this Section and Section 803(e), a taxpayer's gross
18 income, adjusted gross income, or taxable income for the
19 taxable year shall mean the amount of gross income,
20 adjusted gross income or taxable income properly
21 reportable for federal income tax purposes for the
22 taxable year under the provisions of the Internal Revenue
23 Code. Taxable income may be less than zero. However, for
24 taxable years ending on or after December 31, 1986, net
25 operating loss carryforwards from taxable years ending
26 prior to December 31, 1986, may not exceed the sum of
27 federal taxable income for the taxable year before net
28 operating loss deduction, plus the excess of addition
29 modifications over subtraction modifications for the
30 taxable year. For taxable years ending prior to December
31 31, 1986, taxable income may never be an amount in excess
32 of the net operating loss for the taxable year as defined
33 in subsections (c) and (d) of Section 172 of the Internal
34 Revenue Code, provided that when taxable income of a

1 corporation (other than a Subchapter S corporation),
2 trust, or estate is less than zero and addition
3 modifications, other than those provided by subparagraph
4 (E) of paragraph (2) of subsection (b) for corporations
5 or subparagraph (E) of paragraph (2) of subsection (c)
6 for trusts and estates, exceed subtraction modifications,
7 an addition modification must be made under those
8 subparagraphs for any other taxable year to which the
9 taxable income less than zero (net operating loss) is
10 applied under Section 172 of the Internal Revenue Code or
11 under subparagraph (E) of paragraph (2) of this
12 subsection (e) applied in conjunction with Section 172 of
13 the Internal Revenue Code.

14 (2) Special rule. For purposes of paragraph (1) of
15 this subsection, the taxable income properly reportable
16 for federal income tax purposes shall mean:

17 (A) Certain life insurance companies. In the
18 case of a life insurance company subject to the tax
19 imposed by Section 801 of the Internal Revenue Code,
20 life insurance company taxable income, plus the
21 amount of distribution from pre-1984 policyholder
22 surplus accounts as calculated under Section 815a of
23 the Internal Revenue Code;

24 (B) Certain other insurance companies. In the
25 case of mutual insurance companies subject to the
26 tax imposed by Section 831 of the Internal Revenue
27 Code, insurance company taxable income;

28 (C) Regulated investment companies. In the
29 case of a regulated investment company subject to
30 the tax imposed by Section 852 of the Internal
31 Revenue Code, investment company taxable income;

32 (D) Real estate investment trusts. In the
33 case of a real estate investment trust subject to
34 the tax imposed by Section 857 of the Internal

1 Revenue Code, real estate investment trust taxable
2 income;

3 (E) Consolidated corporations. In the case of
4 a corporation which is a member of an affiliated
5 group of corporations filing a consolidated income
6 tax return for the taxable year for federal income
7 tax purposes, taxable income determined as if such
8 corporation had filed a separate return for federal
9 income tax purposes for the taxable year and each
10 preceding taxable year for which it was a member of
11 an affiliated group. For purposes of this
12 subparagraph, the taxpayer's separate taxable income
13 shall be determined as if the election provided by
14 Section 243(b) (2) of the Internal Revenue Code had
15 been in effect for all such years;

16 (F) Cooperatives. In the case of a
17 cooperative corporation or association, the taxable
18 income of such organization determined in accordance
19 with the provisions of Section 1381 through 1388 of
20 the Internal Revenue Code;

21 (G) Subchapter S corporations. In the case
22 of: (i) a Subchapter S corporation for which there
23 is in effect an election for the taxable year under
24 Section 1362 of the Internal Revenue Code, the
25 taxable income of such corporation determined in
26 accordance with Section 1363(b) of the Internal
27 Revenue Code, except that taxable income shall take
28 into account those items which are required by
29 Section 1363(b)(1) of the Internal Revenue Code to
30 be separately stated; and (ii) a Subchapter S
31 corporation for which there is in effect a federal
32 election to opt out of the provisions of the
33 Subchapter S Revision Act of 1982 and have applied
34 instead the prior federal Subchapter S rules as in

1 effect on July 1, 1982, the taxable income of such
2 corporation determined in accordance with the
3 federal Subchapter S rules as in effect on July 1,
4 1982; and

5 (H) Partnerships. In the case of a
6 partnership, taxable income determined in accordance
7 with Section 703 of the Internal Revenue Code,
8 except that taxable income shall take into account
9 those items which are required by Section 703(a)(1)
10 to be separately stated but which would be taken
11 into account by an individual in calculating his
12 taxable income.

13 (f) Valuation limitation amount.

14 (1) In general. The valuation limitation amount
15 referred to in subsections (a) (2) (G), (c) (2) (I) and
16 (d)(2) (E) is an amount equal to:

17 (A) The sum of the pre-August 1, 1969
18 appreciation amounts (to the extent consisting of
19 gain reportable under the provisions of Section 1245
20 or 1250 of the Internal Revenue Code) for all
21 property in respect of which such gain was reported
22 for the taxable year; plus

23 (B) The lesser of (i) the sum of the
24 pre-August 1, 1969 appreciation amounts (to the
25 extent consisting of capital gain) for all property
26 in respect of which such gain was reported for
27 federal income tax purposes for the taxable year, or
28 (ii) the net capital gain for the taxable year,
29 reduced in either case by any amount of such gain
30 included in the amount determined under subsection
31 (a) (2) (F) or (c) (2) (H).

32 (2) Pre-August 1, 1969 appreciation amount.

33 (A) If the fair market value of property
34 referred to in paragraph (1) was readily

1 ascertainable on August 1, 1969, the pre-August 1,
2 1969 appreciation amount for such property is the
3 lesser of (i) the excess of such fair market value
4 over the taxpayer's basis (for determining gain) for
5 such property on that date (determined under the
6 Internal Revenue Code as in effect on that date), or
7 (ii) the total gain realized and reportable for
8 federal income tax purposes in respect of the sale,
9 exchange or other disposition of such property.

10 (B) If the fair market value of property
11 referred to in paragraph (1) was not readily
12 ascertainable on August 1, 1969, the pre-August 1,
13 1969 appreciation amount for such property is that
14 amount which bears the same ratio to the total gain
15 reported in respect of the property for federal
16 income tax purposes for the taxable year, as the
17 number of full calendar months in that part of the
18 taxpayer's holding period for the property ending
19 July 31, 1969 bears to the number of full calendar
20 months in the taxpayer's entire holding period for
21 the property.

22 (C) The Department shall prescribe such
23 regulations as may be necessary to carry out the
24 purposes of this paragraph.

25 (g) Double deductions. Unless specifically provided
26 otherwise, nothing in this Section shall permit the same item
27 to be deducted more than once.

28 (h) Legislative intention. Except as expressly provided
29 by this Section there shall be no modifications or
30 limitations on the amounts of income, gain, loss or deduction
31 taken into account in determining gross income, adjusted
32 gross income or taxable income for federal income tax
33 purposes for the taxable year, or in the amount of such items

1 entering into the computation of base income and net income
2 under this Act for such taxable year, whether in respect of
3 property values as of August 1, 1969 or otherwise.

4 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;
5 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.
6 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,
7 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;
8 revised 9-21-01.)

9 (35 ILCS 5/209)

10 Sec. 209. Tax Credit for "TECH-PREP" youth vocational
11 programs.

12 (a) Beginning with tax years ending on or after June 30,
13 1995, every taxpayer who is primarily engaged in
14 manufacturing is allowed a credit against the tax imposed by
15 subsections (a) and (b) of Section 201 in an amount equal to
16 20% of the taxpayer's direct payroll expenditures for which a
17 credit has not already been claimed under subsection (j) of
18 Section 201 of this Act, in the tax year for which the credit
19 is claimed, for cooperative secondary school youth vocational
20 programs in Illinois which are certified as qualifying
21 TECH-PREP programs by the State Board of Education and the
22 Department of Revenue because the programs prepare students
23 to be technically skilled workers and meet the performance
24 standards of business and industry and the admission
25 standards of higher education. The credit may also be claimed
26 for personal services rendered to the taxpayer by a TECH-PREP
27 student or instructor (i) which would be subject to the
28 provisions of Article 7 of this Act if the student or
29 instructor was an employee of the taxpayer and (ii) for which
30 no credit under this Section is claimed by another taxpayer.

31 (b) If the amount of the credit exceeds the tax
32 liability for the year, the excess may be carried forward and
33 applied to the tax liability of the 2 taxable years following

1 the excess credit year. The credit shall be applied to the
2 earliest year for which there is a tax liability. If there
3 are credits from more than one tax year that are available to
4 offset a liability, the earlier credit shall be applied
5 first.

6 (c) A taxpayer claiming the credit provided by this
7 Section shall maintain and record such information regarding
8 its participation in a qualifying TECH-PREP program as the
9 Department may require by regulation. When claiming the
10 credit provided by this Section, the taxpayer shall provide
11 such information regarding the taxpayer's participation in a
12 qualifying TECH-PREP program as the Department of Revenue may
13 require by regulation.

14 (d) This Section does not apply to those programs with
15 national standards that have been or in the future are
16 approved by the U.S. Department of Labor, Bureau of
17 Apprenticeship Training or any federal agency succeeding to
18 the responsibilities of that Bureau.

19 (Source: P.A. 88-505; 89-399, eff. 8-20-95.)

20 (35 ILCS 5/502) (from Ch. 120, par. 5-502)
21 Sec. 502. Returns and notices.

22 (a) In general. A return with respect to the taxes
23 imposed by this Act shall be made by every person for any
24 taxable year:

25 (1) For which such person is liable for a tax
26 imposed by this Act, or

27 (2) In the case of a resident or in the case of a
28 corporation which is qualified to do business in this
29 State, for which such person is required to make a
30 federal income tax return, regardless of whether such
31 person is liable for a tax imposed by this Act. However,
32 this paragraph shall not require a resident to make a
33 return if such person has an Illinois base income of the

1 basic amount in Section 204(b) or less and is either
2 claimed as a dependent on another person's tax return
3 under the Internal Revenue Code of 1986, or is claimed as
4 a dependent on another person's tax return under this
5 Act.

6 (b) Fiduciaries and receivers.

7 (1) Decedents. If an individual is deceased, any
8 return or notice required of such individual under this
9 Act shall be made by his executor, administrator, or
10 other person charged with the property of such decedent.

11 (2) Individuals under a disability. If an
12 individual is unable to make a return or notice required
13 under this Act, the return or notice required of such
14 individual shall be made by his duly authorized agent,
15 guardian, fiduciary or other person charged with the care
16 of the person or property of such individual.

17 (3) Estates and trusts. Returns or notices required
18 of an estate or a trust shall be made by the fiduciary
19 thereof.

20 (4) Receivers, trustees and assignees for
21 corporations. In a case where a receiver, trustee in
22 bankruptcy, or assignee, by order of a court of competent
23 jurisdiction, by operation of law, or otherwise, has
24 possession of or holds title to all or substantially all
25 the property or business of a corporation, whether or not
26 such property or business is being operated, such
27 receiver, trustee, or assignee shall make the returns and
28 notices required of such corporation in the same manner
29 and form as corporations are required to make such
30 returns and notices.

31 (c) Joint returns by husband and wife.

32 (1) Except as provided in paragraph (3), if a
33 husband and wife file a joint federal income tax return
34 for a taxable year they shall file a joint return under

1 this Act for such taxable year and their liabilities
2 shall be joint and several, but if the federal income tax
3 liability of either spouse is determined on a separate
4 federal income tax return, they shall file separate
5 returns under this Act.

6 (2) If neither spouse is required to file a federal
7 income tax return and either or both are required to file
8 a return under this Act, they may elect to file separate
9 or joint returns and pursuant to such election their
10 liabilities shall be separate or joint and several.

11 (3) If either husband or wife is a resident and the
12 other is a nonresident, they shall file separate returns
13 in this State on such forms as may be required by the
14 Department in which event their tax liabilities shall be
15 separate; but they may elect to determine their joint net
16 income and file a joint return as if both were residents
17 and in such case, their liabilities shall be joint and
18 several.

19 (4) Innocent spouses.

20 (A) However, for tax liabilities arising and
21 paid prior to August 13, 1999 ~~the-effective-date-of~~
22 ~~this-amendatory-Act-of-the-91st-General-Assembly~~, an
23 innocent spouse shall be relieved of liability for
24 tax (including interest and penalties) for any
25 taxable year for which a joint return has been made,
26 upon submission of proof that the Internal Revenue
27 Service has made a determination under Section
28 6013(e) of the Internal Revenue Code, for the same
29 taxable year, which determination relieved the
30 spouse from liability for federal income taxes. If
31 there is no federal income tax liability at issue
32 for the same taxable year, the Department shall rely
33 on the provisions of Section 6013(e) to determine
34 whether the person requesting innocent spouse

1 abatement of tax, penalty, and interest is entitled
2 to that relief.

3 (B) For tax liabilities arising on and after
4 August 13, 1999 ~~the--effective---date---of---this~~
5 ~~amendatory-Aet-of-the-91st-General-Assembly~~ or which
6 arose prior to that effective date, but remain
7 unpaid as of that ~~the--effective~~ date, if an
8 individual who filed a joint return for any taxable
9 year has made an election under this paragraph, the
10 individual's liability for any tax shown on the
11 joint return shall not exceed the individual's
12 separate return amount and the individual's
13 liability for any deficiency assessed for that
14 taxable year shall not exceed the portion of the
15 deficiency properly allocable to the individual.
16 For purposes of this paragraph:

17 (i) An election properly made pursuant to
18 Section 6015 of the Internal Revenue Code shall
19 constitute an election under this paragraph,
20 provided that the election shall not be
21 effective until the individual has notified the
22 Department of the election in the form and
23 manner prescribed by the Department.

24 (ii) If no election has been made under
25 Section 6015, the individual may make an
26 election under this paragraph in the form and
27 manner prescribed by the Department, provided
28 that no election may be made if the Department
29 finds that assets were transferred between
30 individuals filing a joint return as part of a
31 scheme by such individuals to avoid payment of
32 Illinois income tax and the election shall not
33 eliminate the individual's liability for any
34 portion of a deficiency attributable to an

1 error on the return of which the individual had
2 actual knowledge as of the date of filing.

3 (iii) In determining the separate return
4 amount or portion of any deficiency
5 attributable to an individual, the Department
6 shall follow the provisions in subsections (c)
7 and (d) of Section 6015 ~~6015(b) and (e)~~ of the
8 Internal Revenue Code.

9 (iv) In determining the validity of an
10 individual's election under subparagraph (ii)
11 and in determining an electing individual's
12 separate return amount or portion of any
13 deficiency under subparagraph (iii), any
14 determination made by the Secretary of the
15 Treasury, by the United States Tax Court on
16 petition for review of a determination by the
17 Secretary of the Treasury, or on appeal from
18 the United States Tax Court under Section 6015
19 ~~6015(a)~~ of the Internal Revenue Code regarding
20 criteria for eligibility or under subsection
21 (d) of Section 6015 ~~6015(b) or (e)~~ of the
22 Internal Revenue Code regarding the allocation
23 of any item of income, deduction, payment, or
24 credit between an individual making the federal
25 election and that individual's spouse shall be
26 conclusively presumed to be correct. With
27 respect to any item that is not the subject of
28 a determination by the Secretary of the
29 Treasury or the federal courts, in any
30 proceeding involving this subsection, the
31 individual making the election shall have the
32 burden of proof with respect to any item except
33 that the Department shall have the burden of
34 proof with respect to items in subdivision

1 (ii).

2 (v) Any election made by an individual
3 under this subsection shall apply to all years
4 for which that individual and the spouse named
5 in the election have filed a joint return.

6 (vi) After receiving a notice that the
7 federal election has been made or after
8 receiving an election under subdivision (ii),
9 the Department shall take no collection action
10 against the electing individual for any
11 liability arising from a joint return covered
12 by the election until the Department has
13 notified the electing individual in writing
14 that the election is invalid or of the portion
15 of the liability the Department has allocated
16 to the electing individual. Within 60 days
17 (150 days if the individual is outside the
18 United States) after the issuance of such
19 notification, the individual may file a written
20 protest of the denial of the election or of the
21 Department's determination of the liability
22 allocated to him or her and shall be granted a
23 hearing within the Department under the
24 provisions of Section 908. If a protest is
25 filed, the Department shall take no collection
26 action against the electing individual until
27 the decision regarding the protest has become
28 final under subsection (d) of Section 908 or,
29 if administrative review of the Department's
30 decision is requested under Section 1201, until
31 the decision of the court becomes final.

32 (d) Partnerships. Every partnership having any base
33 income allocable to this State in accordance with section
34 305(c) shall retain information concerning all items of

1 income, gain, loss and deduction; the names and addresses of
2 all of the partners, or names and addresses of members of a
3 limited liability company, or other persons who would be
4 entitled to share in the base income of the partnership if
5 distributed; the amount of the distributive share of each;
6 and such other pertinent information as the Department may by
7 forms or regulations prescribe. The partnership shall make
8 that information available to the Department when requested
9 by the Department.

10 (e) For taxable years ending on or after December 31,
11 1985, and before December 31, 1993, taxpayers that are
12 corporations (other than Subchapter S corporations) having
13 the same taxable year and that are members of the same
14 unitary business group may elect to be treated as one
15 taxpayer for purposes of any original return, amended return
16 which includes the same taxpayers of the unitary group which
17 joined in the election to file the original return,
18 extension, claim for refund, assessment, collection and
19 payment and determination of the group's tax liability under
20 this Act. This subsection (e) does not permit the election to
21 be made for some, but not all, of the purposes enumerated
22 above. For taxable years ending on or after December 31,
23 1987, corporate members (other than Subchapter S
24 corporations) of the same unitary business group making this
25 subsection (e) election are not required to have the same
26 taxable year.

27 For taxable years ending on or after December 31, 1993,
28 taxpayers that are corporations (other than Subchapter S
29 corporations) and that are members of the same unitary
30 business group shall be treated as one taxpayer for purposes
31 of any original return, amended return which includes the
32 same taxpayers of the unitary group which joined in filing
33 the original return, extension, claim for refund, assessment,
34 collection and payment and determination of the group's tax

1 liability under this Act.

2 (f) The Department may promulgate regulations to permit
3 nonresident individual partners of the same partnership,
4 nonresident Subchapter S corporation shareholders of the same
5 Subchapter S corporation, and nonresident individuals
6 transacting an insurance business in Illinois under a Lloyds
7 plan of operation, and nonresident individual members of the
8 same limited liability company that is treated as a
9 partnership under Section 1501 (a)(16) of this Act, to file
10 composite individual income tax returns reflecting the
11 composite income of such individuals allocable to Illinois
12 and to make composite individual income tax payments. The
13 Department may by regulation also permit such composite
14 returns to include the income tax owed by Illinois residents
15 attributable to their income from partnerships, Subchapter S
16 corporations, insurance businesses organized under a Lloyds
17 plan of operation, or limited liability companies that are
18 treated as partnership under Section 1501 (a)(16) of this
19 Act, in which case such Illinois residents will be permitted
20 to claim credits on their individual returns for their shares
21 of the composite tax payments. This paragraph of subsection
22 (f) applies to taxable years ending on or after December 31,
23 1987.

24 For taxable years ending on or after December 31, 1999,
25 the Department may, by regulation, also permit any persons
26 transacting an insurance business organized under a Lloyds
27 plan of operation to file composite returns reflecting the
28 income of such persons allocable to Illinois and the tax
29 rates applicable to such persons under Section 201 and to
30 make composite tax payments and shall, by regulation, also
31 provide that the income and apportionment factors
32 attributable to the transaction of an insurance business
33 organized under a Lloyds plan of operation by any person
34 joining in the filing of a composite return shall, for

1 purposes of allocating and apportioning income under Article
 2 3 of this Act and computing net income under Section 202 of
 3 this Act, be excluded from any other income and apportionment
 4 factors of that person or of any unitary business group, as
 5 defined in subdivision (a)(27) of Section 1501, to which that
 6 person may belong.

7 (g) The Department may adopt rules to authorize the
 8 electronic filing of any return required to be filed under
 9 this Section.

10 (Source: P.A. 90-613, eff. 7-9-98; 91-541, eff. 8-13-99;
 11 91-913, eff. 1-1-01.)

12 (35 ILCS 5/506) (from Ch. 120, par. 5-506)
 13 Sec. 506. Federal Returns.

14 (a) In general. Any person required to make a return
 15 for a taxable year under this Act may, at any time that a
 16 deficiency could be assessed or a refund claimed under this
 17 Act in respect of any item reported or properly reportable on
 18 such return or any amendment thereof, be required to furnish
 19 to the Department a true and correct copy of any return which
 20 may pertain to such item and which was filed by such person
 21 under the provisions of the Internal Revenue Code.

22 (b) Changes affecting federal income tax. A person shall
 23 notify the Department if: ~~In-the-event~~

24 (1) the taxable income, any item of income or
 25 deduction, the income tax liability, or any tax credit
 26 reported in a federal income tax return of that any
 27 person for any year is altered by amendment of such
 28 return or as a result of any other recomputation or
 29 redetermination of federal taxable income or loss, and
 30 such alteration reflects a change or settlement with
 31 respect to any item or items, affecting the computation
 32 of such person's net income, net loss, or of any credit
 33 provided by Article 2 of this Act for any year under this

1 Act, or in the number of personal exemptions allowable to
2 such person under Section 151 of the Internal Revenue
3 Code, or

4 (2) the amount of tax required to be withheld by
5 that person from compensation paid to employees and
6 required to be reported by that person on a federal
7 return is altered by amendment of the return or by any
8 other recomputation or redetermination that is agreed to
9 or finally determined on or after January 1, 2003, and
10 the alteration affects the amount of compensation subject
11 to withholding by that person under Section 701 of this
12 Act ~~such--person--shall--notify--the--Department--of--such~~
13 alteration.

14 Such notification shall be in the form of an amended return
15 or such other form as the Department may by regulations
16 prescribe, shall contain the person's name and address and
17 such other information as the Department may by regulations
18 prescribe, shall be signed by such person or his duly
19 authorized representative, and shall be filed not later than
20 120 days after such alteration has been agreed to or finally
21 determined for federal income tax purposes or any federal
22 income tax deficiency or refund, tentative carryback
23 adjustment, abatement or credit resulting therefrom has been
24 assessed or paid, whichever shall first occur.

25 (Source: P.A. 90-491, eff. 1-1-98.)

26 (35 ILCS 5/601.1) (Ch. 120, par. 6-601.1)

27 Sec. 601.1. Payment by electronic funds transfer.

28 (a) Beginning on October 1, 1993, a taxpayer who has an
29 average monthly tax liability of \$150,000 or more under
30 Article 7 of this Act shall make all payments required by
31 rules of the Department by electronic funds transfer.
32 Beginning October 1, 1993, a taxpayer who has an average
33 quarterly estimated tax payment obligation of \$450,000 or

1 more under Article 8 of this Act shall make all payments
2 required by rules of the Department by electronic funds
3 transfer. Beginning on October 1, 1994, a taxpayer who has
4 an average monthly tax liability of \$100,000 or more under
5 Article 7 of this Act shall make all payments required by
6 rules of the Department by electronic funds transfer.
7 Beginning October 1, 1994, a taxpayer who has an average
8 quarterly estimated tax payment obligation of \$300,000 or
9 more under Article 8 of this Act shall make all payments
10 required by rules of the Department by electronic funds
11 transfer. Beginning on October 1, 1995, a taxpayer who has
12 an average monthly tax liability of \$50,000 or more under
13 Article 7 of this Act shall make all payments required by
14 rules of the Department by electronic funds transfer.
15 Beginning October 1, 1995, a taxpayer who has an average
16 quarterly estimated tax payment obligation of \$150,000 or
17 more under Article 8 of this Act shall make all payments
18 required by rules of the Department by electronic funds
19 transfer. Beginning on October 1, 2000, and for all liability
20 periods thereafter, a taxpayer who has an average annual tax
21 liability of \$200,000 or more under Article 7 of this Act
22 shall make all payments required by rules of the Department
23 by electronic funds transfer. Beginning October 1, 2000, a
24 taxpayer who has an average quarterly estimated tax payment
25 obligation of \$50,000 or more under Article 8 of this Act
26 shall make all payments required by rules of the Department
27 by electronic funds transfer. Beginning on October 1, 2002, a
28 taxpayer who has a tax liability in the amount set forth in
29 subsection (b) of Section 2505-210 of the Department of
30 Revenue Law shall make all payments required by rules of the
31 Department by electronic funds transfer. Beginning on October
32 1, 2002, a taxpayer who has a tax liability in the amount set
33 forth in subsection (b) of Section 2505-210 of the Department
34 of Revenue Law shall make all payments required by rules of

1 the Department by electronic funds transfer.

2 (b) Any taxpayer who is not required to make payments by
3 electronic funds transfer may make payments by electronic
4 funds transfer with the permission of the Department.

5 (c) All taxpayers required to make payments by
6 electronic funds transfer and any taxpayers who wish to
7 voluntarily make payments by electronic funds transfer shall
8 make those payments in the manner authorized by the
9 Department.

10 (d) The Department shall notify all taxpayers required
11 to make payments by electronic funds transfer. All
12 taxpayers notified by the Department shall make payments by
13 electronic funds transfer for a minimum of one year beginning
14 on October 1. In determining the threshold amounts under
15 subsection (a), the Department shall calculate the averages
16 as follows:

17 (1) the total liability under Article 7 for the
18 preceding tax year (and, prior to October 1, 2000,
19 divided by 12); or

20 (2) for purposes of estimated payments under
21 Article 8, the total tax obligation of the taxpayer for
22 the previous tax year divided by 4.

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

26 (Source: P.A. 91-541, eff. 8-13-99; 92-492, eff. 1-1-02.)

27 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

28 Sec. 701. Requirement and Amount of Withholding.

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

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

1 (2) payments described in subsection (b) shall
2 deduct and withhold from such compensation for each
3 payroll period (as defined in Section 3401 of the
4 Internal Revenue Code) an amount equal to the amount by
5 which such individual's compensation exceeds the
6 proportionate part of this withholding exemption
7 (computed as provided in Section 702) attributable to the
8 payroll period for which such compensation is payable
9 multiplied by a percentage equal to the percentage tax
10 rate for individuals provided in subsection (b) of
11 Section 201.

12 (b) Payment to Residents.

13 Any payment (including compensation) to a resident by a
14 payor maintaining an office or transacting business within
15 this State (including any agency, officer, or employee of
16 this State or of any political subdivision of this State) and
17 on which withholding of tax is required under the provisions
18 of the Internal Revenue Code shall be deemed to be
19 compensation paid in this State by an employer to an employee
20 for the purposes of Article 7 and Section 601 (b) (1) to the
21 extent such payment is included in the recipient's base
22 income and not subjected to withholding by another state.

23 (c) Special Definitions.

24 Withholding shall be considered required under the
25 provisions of the Internal Revenue Code to the extent the
26 Internal Revenue Code either requires withholding or allows
27 for voluntary withholding the payor and recipient have
28 entered into such a voluntary withholding agreement. For the
29 purposes of Article 7 and Section 1002 (c) the term
30 "employer" includes any payor who is required to withhold tax
31 pursuant to this Section.

32 (d) Reciprocal Exemption.

33 The Director may enter into an agreement with the taxing
34 authorities of any state which imposes a tax on or measured

1 by income to provide that compensation paid in such state to
2 residents of this State shall be exempt from withholding of
3 such tax; in such case, any compensation paid in this State
4 to residents of such state shall be exempt from withholding.
5 All reciprocal agreements shall be subject to the
6 requirements of Section 2505-575 of the Department of Revenue
7 Law (20 ILCS 2505/2505-575).

8 (e) Notwithstanding subsection (a) (2) of this Section,
9 no withholding is required on payments for which withholding
10 is required under Section 3405 or 3406 of the Internal
11 Revenue Code of 1954.

12 (Source: P.A. 90-491, eff. 1-1-98; 91-239, eff. 1-1-00.)

13 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

14 Sec. 905. Limitations on Notices of Deficiency.

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

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

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

23 (b) Omission of more than 25% of income. If the taxpayer
24 omits from base income an amount properly includible therein
25 which is in excess of 25% of the amount of base income stated
26 in the return, a notice of deficiency may be issued not later
27 than 6 years after the return was filed. For purposes of this
28 paragraph, there shall not be taken into account any amount
29 which is omitted in the return if such amount is disclosed in
30 the return, or in a statement attached to the return, in a
31 manner adequate to apprise the Department of the nature and
32 the amount of such item.

33 (c) No return or fraudulent return. If no return is

1 filed or a false and fraudulent return is filed with intent
2 to evade the tax imposed by this Act, a notice of deficiency
3 may be issued at any time.

4 (d) Failure to report federal change. If a taxpayer
5 fails to notify the Department in any case where notification
6 is required by Section 304(c) or 506(b), or fails to report a
7 change or correction which is treated in the same manner as
8 if it were a deficiency for federal income tax purposes, a
9 notice of deficiency may be issued (i) at any time or (ii) on
10 or after August 13, 1999 ~~the--effective--date--of---this~~
11 ~~amendatory--Act-of-the-91st-General-Assembly~~, at any time for
12 the taxable year for which the notification is required or
13 for any taxable year to which the taxpayer may carry an
14 Article 2 credit, or a Section 207 loss, earned, incurred, or
15 used in the year for which the notification is required;
16 provided, however, that the amount of any proposed assessment
17 set forth in the notice shall be limited to the amount of any
18 deficiency resulting under this Act from the recomputation of
19 the taxpayer's net income, Article 2 credits, or Section 207
20 loss earned, incurred, or used in the taxable year for which
21 the notification is required after giving effect to the item
22 or items required to be reported.

23 (e) Report of federal change.

24 (1) Before August 13, 1999 ~~the--effective--date--of~~
25 ~~this--amendatory-Act-of-the-91st-General-Assembly~~, in any
26 case where notification of an alteration is given as
27 required by Section 506(b), a notice of deficiency may be
28 issued at any time within 2 years after the date such
29 notification is given, provided, however, that the amount
30 of any proposed assessment set forth in such notice shall
31 be limited to the amount of any deficiency resulting
32 under this Act from recomputation of the taxpayer's net
33 income, net loss, or Article 2 credits for the taxable
34 year after giving effect to the item or items reflected

1 in the reported alteration.

2 (2) On and after August 13, 1999 ~~the-effective-date~~
3 ~~of-this-amendatory-Act-of-the-91st-General--Assembly,~~ in
4 any case where notification of an alteration is given as
5 required by Section 506(b), a notice of deficiency may be
6 issued at any time within 2 years after the date such
7 notification is given for the taxable year for which the
8 notification is given or for any taxable year to which
9 the taxpayer may carry an Article 2 credit, or a Section
10 207 loss, earned, incurred, or used in the year for which
11 the notification is given, provided, however, that the
12 amount of any proposed assessment set forth in such
13 notice shall be limited to the amount of any deficiency
14 resulting under this Act from recomputation of the
15 taxpayer's net income, Article 2 credits, or Section 207
16 loss earned, incurred, or used in the taxable year for
17 which the notification is given after giving effect to
18 the item or items reflected in the reported alteration.

19 (f) Extension by agreement. Where, before the expiration
20 of the time prescribed in this section for the issuance of a
21 notice of deficiency, both the Department and the taxpayer
22 shall have consented in writing to its issuance after such
23 time, such notice may be issued at any time prior to the
24 expiration of the period agreed upon. In the case of a
25 taxpayer who is a partnership, Subchapter S corporation, or
26 trust and who enters into an agreement with the Department
27 pursuant to this subsection on or after January 1, 2003, a
28 notice of deficiency may be issued to the partners,
29 shareholders, or beneficiaries of the taxpayer at any time
30 prior to the expiration of the period agreed upon. Any
31 proposed assessment set forth in the notice, however, shall
32 be limited to the amount of any deficiency resulting under
33 this Act from recomputation of items of income, deduction,
34 credits, or other amounts of the taxpayer that are taken into

1 account by the partner, shareholder, or beneficiary in
2 computing its liability under this Act. The period so agreed
3 upon may be extended by subsequent agreements in writing made
4 before the expiration of the period previously agreed upon.

5 (g) Erroneous refunds. In any case in which there has
6 been an erroneous refund of tax payable under this Act, a
7 notice of deficiency may be issued at any time within 2 years
8 from the making of such refund, or within 5 years from the
9 making of such refund if it appears that any part of the
10 refund was induced by fraud or the misrepresentation of a
11 material fact, provided, however, that the amount of any
12 proposed assessment set forth in such notice shall be limited
13 to the amount of such erroneous refund.

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

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

30 (i) Request for prompt determination of liability. For
31 purposes of Subsection (a)(1), in the case of a tax return
32 required under this Act in respect of a decedent, or by his
33 estate during the period of administration, or by a
34 corporation, the period referred to in such Subsection shall

1 be 18 months after a written request for prompt determination
2 of liability is filed with the Department (at such time and
3 in such form and manner as the Department shall by
4 regulations prescribe) by the executor, administrator, or
5 other fiduciary representing the estate of such decedent, or
6 by such corporation, but not more than 3 years after the date
7 the return was filed. This Subsection shall not apply in the
8 case of a corporation unless:

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

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

18 (3) A dissolution has been completed at the time
19 such written request is made.

20 (j) Withholding tax. In the case of returns required
21 under Article 7 of this Act (with respect to any amounts
22 withheld as tax or any amounts required to have been withheld
23 as tax) a notice of deficiency shall be issued not later than
24 3 years after the 15th day of the 4th month following the
25 close of the calendar year in which such withholding was
26 required.

27 (k) Penalties for failure to make information reports.
28 A notice of deficiency for the penalties provided by
29 Subsection 1405.1(c) of this Act may not be issued more than
30 3 years after the due date of the reports with respect to
31 which the penalties are asserted.

32 (l) Penalty for failure to file withholding returns. A
33 notice of deficiency for penalties provided by Section 1004
34 of this Act for taxpayer's failure to file withholding

1 returns may not be issued more than three years after the
2 15th day of the 4th month following the close of the calendar
3 year in which the withholding giving rise to taxpayer's
4 obligation to file those returns occurred.

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

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

15 2) Transferee of Transferee. In the case of the
16 liability of a transferee, up to 2 years after the
17 expiration of the period of limitation for assessment
18 against the preceding transferee, but not more than 3
19 years after the expiration of the period of limitation
20 for assessment against the initial transferor; except
21 that if, before the expiration of the period of
22 limitation for the assessment of the liability of the
23 transferee, a court proceeding for the collection of the
24 tax or liability in respect thereof has been begun
25 against the initial transferor or the last preceding
26 transferee, as the case may be, then the period of
27 limitation for assessment of the liability of the
28 transferee shall expire 2 years after the return of the
29 certified copy of the judgment in the court proceeding.

30 (n) Notice of decrease in net loss. On and after the
31 effective date of this amendatory Act of the 92nd General
32 Assembly, no notice of deficiency shall be issued as the
33 result of a decrease determined by the Department in the net
34 loss incurred by a taxpayer under Section 207 of this Act

1 unless the Department has notified the taxpayer of the
 2 proposed decrease within 3 years after the return reporting
 3 the loss was filed or within one year after an amended return
 4 reporting an increase in the loss was filed, provided that in
 5 the case of an amended return, a decrease proposed by the
 6 Department more than 3 years after the original return was
 7 filed may not exceed the increase claimed by the taxpayer on
 8 the original return.

9 (Source: P.A. 90-491, eff. 1-1-98; 91-541, eff. 8-13-99.)

10 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

11 Sec. 911. Limitations on Claims for Refund.

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

14 (1) A claim for refund shall be filed not later
 15 than 3 years after the date the return was filed (in the
 16 case of returns required under Article 7 of this Act
 17 respecting any amounts withheld as tax, not later than 3
 18 years after the 15th day of the 4th month following the
 19 close of the calendar year in which such withholding was
 20 made), or one year after the date the tax was paid,
 21 whichever is the later; and

22 (2) No credit or refund shall be allowed or made
 23 with respect to the year for which the claim was filed
 24 unless such claim is filed within such period.

25 (b) Federal changes.

26 (1) In general. In any case where notification of
 27 an alteration is required by Section 506 (b), a claim for
 28 refund may be filed within 2 years after the date on
 29 which such notification was due (regardless of whether
 30 such notice was given), but the amount recoverable
 31 pursuant to a claim filed under this Section shall be
 32 limited to the amount of any overpayment resulting under
 33 this Act from recomputation of the taxpayer's net income,

1 net loss, or Article 2 credits for the taxable year after
2 giving effect to the item or items reflected in the
3 alteration required to be reported.

4 (2) Tentative carryback adjustments paid before
5 January 1, 1974. If, as the result of the payment before
6 January 1, 1974 of a federal tentative carryback
7 adjustment, a notification of an alteration is required
8 under Section 506 (b), a claim for refund may be filed at
9 any time before January 1, 1976, but the amount
10 recoverable pursuant to a claim filed under this Section
11 shall be limited to the amount of any overpayment
12 resulting under this Act from recomputation of the
13 taxpayer's base income for the taxable year after giving
14 effect to the federal alteration resulting from the
15 tentative carryback adjustment irrespective of any
16 limitation imposed in paragraph (1) of this subsection.

17 (c) Extension by agreement. Where, before the
18 expiration of the time prescribed in this section for the
19 filing of a claim for refund, both the Department and the
20 claimant shall have consented in writing to its filing after
21 such time, such claim may be filed at any time prior to the
22 expiration of the period agreed upon. The period so agreed
23 upon may be extended by subsequent agreements in writing made
24 before the expiration of the period previously agreed upon.
25 In the case of a taxpayer who is a partnership, Subchapter S
26 corporation, or trust and who enters into an agreement with
27 the Department pursuant to this subsection on or after
28 January 1, 2003, a claim for refund may be issued to the
29 partners, shareholders, or beneficiaries of the taxpayer at
30 any time prior to the expiration of the period agreed upon.
31 Any refund allowed pursuant to the claim, however, shall be
32 limited to the amount of any overpayment of tax due under
33 this Act that results from recomputation of items of income,
34 deduction, credits, or other amounts of the taxpayer that are

1 taken into account by the partner, shareholder, or
2 beneficiary in computing its liability under this Act.

3 (d) Limit on amount of credit or refund.

4 (1) Limit where claim filed within 3-year period.

5 If the claim was filed by the claimant during the 3-year
6 period prescribed in subsection (a), the amount of the
7 credit or refund shall not exceed the portion of the tax
8 paid within the period, immediately preceding the filing
9 of the claim, equal to 3 years plus the period of any
10 extension of time for filing the return.

11 (2) Limit where claim not filed within 3-year
12 period. If the claim was not filed within such 3-year
13 period, the amount of the credit or refund shall not
14 exceed the portion of the tax paid during the one year
15 immediately preceding the filing of the claim.

16 (e) Time return deemed filed. For purposes of this
17 section a tax return filed before the last day prescribed by
18 law for the filing of such return (including any extensions
19 thereof) shall be deemed to have been filed on such last day.

20 (f) No claim for refund based on the taxpayer's taking a
21 credit for estimated tax payments as provided by Section 601
22 (b) (2) or for any amount paid by a taxpayer pursuant to
23 Section 602(a) or for any amount of credit for tax withheld
24 pursuant to Section 701 may be filed more than 3 years after
25 the due date, as provided by Section 505, of the return which
26 was required to be filed relative to the taxable year for
27 which the payments were made or for which the tax was
28 withheld. The changes in this subsection (f) made by this
29 amendatory Act of 1987 shall apply to all taxable years
30 ending on or after December 31, 1969.

31 (g) Special Period of Limitation with Respect to Net
32 Loss Carrybacks. If the claim for refund relates to an
33 overpayment attributable to a net loss carryback as provided
34 by Section 207, in lieu of the 3 year period of limitation

1 prescribed in subsection (a), the period shall be that period
2 which ends 3 years after the time prescribed by law for
3 filing the return (including extensions thereof) for the
4 taxable year of the net loss which results in such carryback
5 (or, on and after August 13, 1999 ~~the effective date of this~~
6 ~~amendatory Act of the 91st General Assembly~~, with respect to
7 a change in the carryover of an Article 2 credit to a taxable
8 year resulting from the carryback of a Section 207 loss
9 incurred in a taxable year beginning on or after January 1,
10 2000, the period shall be that period that ends 3 years after
11 the time prescribed by law for filing the return (including
12 extensions of that time) for that subsequent taxable year),
13 or the period prescribed in subsection (c) in respect of such
14 taxable year, whichever expires later. In the case of such a
15 claim, the amount of the refund may exceed the portion of the
16 tax paid within the period provided in subsection (d) to the
17 extent of the amount of the overpayment attributable to such
18 carryback. On and after August 13, 1999 ~~the effective date of~~
19 ~~this amendatory Act of the 91st General Assembly~~, if the
20 claim for refund relates to an overpayment attributable to
21 the carryover of an Article 2 credit, or of a Section 207
22 loss, earned, incurred (in a taxable year beginning on or
23 after January 1, 2000), or used in a year for which a
24 notification of a change affecting federal taxable income
25 must be filed under subsection (b) of Section 506, the claim
26 may be filed within the period prescribed in paragraph (1) of
27 subsection (b) in respect of the year for which the
28 notification is required. In the case of such a claim, the
29 amount of the refund may exceed the portion of the tax paid
30 within the period provided in subsection (d) to the extent of
31 the amount of the overpayment attributable to the
32 recomputation of the taxpayer's Article 2 credits, or Section
33 207 loss, earned, incurred, or used in the taxable year for
34 which the notification is given.

1 (h) Claim for refund based on net loss. On and after
2 the effective date of this amendatory Act of the 92nd General
3 Assembly, no claim for refund shall be allowed to the extent
4 the refund is the result of an amount of net loss incurred
5 under Section 207 of this Act that was not reported to the
6 Department within 3 years of the due date (including
7 extensions) of the return for the loss year on either the
8 original return filed by the taxpayer or on amended return.

9 (Source: P.A. 90-491, eff. 1-1-98; 91-541, eff. 8-13-99.)

10 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

11 Sec. 1501. Definitions.

12 (a) In general. When used in this Act, where not
13 otherwise distinctly expressed or manifestly incompatible
14 with the intent thereof:

15 (1) Business income. The term "business income"
16 means income arising from transactions and activity in
17 the regular course of the taxpayer's trade or business,
18 net of the deductions allocable thereto, and includes
19 income from tangible and intangible property if the
20 acquisition, management, and disposition of the property
21 constitute integral parts of the taxpayer's regular trade
22 or business operations. Such term does not include
23 compensation or the deductions allocable thereto. For
24 each taxable year beginning on or after January 1, 2003,
25 a taxpayer may elect to treat all income other than
26 compensation as business income. This election shall be
27 made in accordance with rules adopted by the Department
28 and, once made, shall be irrevocable.

29 (2) Commercial domicile. The term "commercial
30 domicile" means the principal place from which the trade
31 or business of the taxpayer is directed or managed.

32 (3) Compensation. The term "compensation" means
33 wages, salaries, commissions and any other form of

1 remuneration paid to employees for personal services.

2 (4) Corporation. The term "corporation" includes
3 associations, joint-stock companies, insurance companies
4 and cooperatives. Any entity, including a limited
5 liability company formed under the Illinois Limited
6 Liability Company Act, shall be treated as a corporation
7 if it is so classified for federal income tax purposes.

8 (5) Department. The term "Department" means the
9 Department of Revenue of this State.

10 (6) Director. The term "Director" means the
11 Director of Revenue of this State.

12 (7) Fiduciary. The term "fiduciary" means a
13 guardian, trustee, executor, administrator, receiver, or
14 any person acting in any fiduciary capacity for any
15 person.

16 (8) Financial organization.

17 (A) The term "financial organization" means
18 any bank, bank holding company, trust company,
19 savings bank, industrial bank, land bank, safe
20 deposit company, private banker, savings and loan
21 association, building and loan association, credit
22 union, currency exchange, cooperative bank, small
23 loan company, sales finance company, investment
24 company, or any person which is owned by a bank or
25 bank holding company. For the purpose of this
26 Section a "person" will include only those persons
27 which a bank holding company may acquire and hold an
28 interest in, directly or indirectly, under the
29 provisions of the Bank Holding Company Act of 1956
30 (12 U.S.C. 1841, et seq.), except where interests in
31 any person must be disposed of within certain
32 required time limits under the Bank Holding Company
33 Act of 1956.

34 (B) For purposes of subparagraph (A) of this

1 paragraph, the term "bank" includes (i) any entity
2 that is regulated by the Comptroller of the Currency
3 under the National Bank Act, or by the Federal
4 Reserve Board, or by the Federal Deposit Insurance
5 Corporation and (ii) any federally or State
6 chartered bank operating as a credit card bank.

7 (C) For purposes of subparagraph (A) of this
8 paragraph, the term "sales finance company" has the
9 meaning provided in the following item (i) or (ii):

10 (i) A person primarily engaged in one or
11 more of the following businesses: the business
12 of purchasing customer receivables, the
13 business of making loans upon the security of
14 customer receivables, the business of making
15 loans for the express purpose of funding
16 purchases of tangible personal property or
17 services by the borrower, or the business of
18 finance leasing. For purposes of this item
19 (i), "customer receivable" means:

20 (a) a retail installment contract or
21 retail charge agreement within the meaning of
22 the Sales Finance Agency Act, the Retail
23 Installment Sales Act, or the Motor Vehicle
24 Retail Installment Sales Act;

25 (b) an installment, charge, credit, or
26 similar contract or agreement arising from the
27 sale of tangible personal property or services
28 in a transaction involving a deferred payment
29 price payable in one or more installments
30 subsequent to the sale; or

31 (c) the outstanding balance of a contract
32 or agreement described in provisions (a) or (b)
33 of this item (i).

34 A customer receivable need not provide for

1 payment of interest on deferred payments. A sales
2 finance company may purchase a customer receivable
3 from, or make a loan secured by a customer
4 receivable to, the seller in the original
5 transaction or to a person who purchased the
6 customer receivable directly or indirectly from that
7 seller.

8 (ii) A corporation meeting each of the
9 following criteria:

10 (a) the corporation must be a member of
11 an "affiliated group" within the meaning of
12 Section 1504(a) of the Internal Revenue Code,
13 determined without regard to Section 1504(b) of
14 the Internal Revenue Code;

15 (b) more than 50% of the gross income of
16 the corporation for the taxable year must be
17 interest income derived from qualifying loans.
18 A "qualifying loan" is a loan made to a member
19 of the corporation's affiliated group that
20 originates customer receivables (within the
21 meaning of item (i)) or to whom customer
22 receivables originated by a member of the
23 affiliated group have been transferred, to the
24 extent the average outstanding balance of loans
25 from that corporation to members of its
26 affiliated group during the taxable year do not
27 exceed the limitation amount for that
28 corporation. The "limitation amount" for a
29 corporation is the average outstanding balances
30 during the taxable year of customer receivables
31 (within the meaning of item (i)) originated by
32 all members of the affiliated group. If the
33 average outstanding balances of the loans made
34 by a corporation to members of its affiliated

1 group exceed the limitation amount, the
2 interest income of that corporation from
3 qualifying loans shall be equal to its interest
4 income from loans to members of its affiliated
5 groups times a fraction equal to the limitation
6 amount divided by the average outstanding
7 balances of the loans made by that corporation
8 to members of its affiliated group;

9 (c) the total of all shareholder's equity
10 (including, without limitation, paid-in capital
11 on common and preferred stock and retained
12 earnings) of the corporation plus the total of
13 all of its loans, advances, and other
14 obligations payable or owed to members of its
15 affiliated group may not exceed 20% of the
16 total assets of the corporation at any time
17 during the tax year; and

18 (d) more than 50% of all interest-bearing
19 obligations of the affiliated group payable to
20 persons outside the group determined in
21 accordance with generally accepted accounting
22 principles must be obligations of the
23 corporation.

24 This amendatory Act of the 91st General Assembly is
25 declaratory of existing law.

26 (D) Subparagraphs (B) and (C) of this
27 paragraph are declaratory of existing law and apply
28 retroactively, for all tax years beginning on or
29 before December 31, 1996, to all original returns,
30 to all amended returns filed no later than 30 days
31 after the effective date of this amendatory Act of
32 1996, and to all notices issued on or before the
33 effective date of this amendatory Act of 1996 under
34 subsection (a) of Section 903, subsection (a) of

1 Section 904, subsection (e) of Section 909, or
2 Section 912. A taxpayer that is a "financial
3 organization" that engages in any transaction with
4 an affiliate shall be a "financial organization" for
5 all purposes of this Act.

6 (E) For all tax years beginning on or before
7 December 31, 1996, a taxpayer that falls within the
8 definition of a "financial organization" under
9 subparagraphs (B) or (C) of this paragraph, but who
10 does not fall within the definition of a "financial
11 organization" under the Proposed Regulations issued
12 by the Department of Revenue on July 19, 1996, may
13 irrevocably elect to apply the Proposed Regulations
14 for all of those years as though the Proposed
15 Regulations had been lawfully promulgated, adopted,
16 and in effect for all of those years. For purposes
17 of applying subparagraphs (B) or (C) of this
18 paragraph to all of those years, the election
19 allowed by this subparagraph applies only to the
20 taxpayer making the election and to those members of
21 the taxpayer's unitary business group who are
22 ordinarily required to apportion business income
23 under the same subsection of Section 304 of this Act
24 as the taxpayer making the election. No election
25 allowed by this subparagraph shall be made under a
26 claim filed under subsection (d) of Section 909 more
27 than 30 days after the effective date of this
28 amendatory Act of 1996.

29 (F) Finance Leases. For purposes of this
30 subsection, a finance lease shall be treated as a
31 loan or other extension of credit, rather than as a
32 lease, regardless of how the transaction is
33 characterized for any other purpose, including the
34 purposes of any regulatory agency to which the

1 lessor is subject. A finance lease is any
2 transaction in the form of a lease in which the
3 lessee is treated as the owner of the leased asset
4 entitled to any deduction for depreciation allowed
5 under Section 167 of the Internal Revenue Code.

6 (9) Fiscal year. The term "fiscal year" means an
7 accounting period of 12 months ending on the last day of
8 any month other than December.

9 (10) Includes and including. The terms "includes"
10 and "including" when used in a definition contained in
11 this Act shall not be deemed to exclude other things
12 otherwise within the meaning of the term defined.

13 (11) Internal Revenue Code. The term "Internal
14 Revenue Code" means the United States Internal Revenue
15 Code of 1954 or any successor law or laws relating to
16 federal income taxes in effect for the taxable year.

17 (12) Mathematical error. The term "mathematical
18 error" includes the following types of errors, omissions,
19 or defects in a return filed by a taxpayer which prevents
20 acceptance of the return as filed for processing:

21 (A) arithmetic errors or incorrect
22 computations on the return or supporting schedules;

23 (B) entries on the wrong lines;

24 (C) omission of required supporting forms or
25 schedules or the omission of the information in
26 whole or in part called for thereon; and

27 (D) an attempt to claim, exclude, deduct, or
28 improperly report, in a manner directly contrary to
29 the provisions of the Act and regulations thereunder
30 any item of income, exemption, deduction, or credit.

31 (13) Nonbusiness income. The term "nonbusiness
32 income" means all income other than business income or
33 compensation.

34 (14) Nonresident. The term "nonresident" means a

1 person who is not a resident.

2 (15) Paid, incurred and accrued. The terms "paid",
3 "incurred" and "accrued" shall be construed according to
4 the method of accounting upon the basis of which the
5 person's base income is computed under this Act.

6 (16) Partnership and partner. The term
7 "partnership" includes a syndicate, group, pool, joint
8 venture or other unincorporated organization, through or
9 by means of which any business, financial operation, or
10 venture is carried on, and which is not, within the
11 meaning of this Act, a trust or estate or a corporation;
12 and the term "partner" includes a member in such
13 syndicate, group, pool, joint venture or organization.

14 The term "partnership" includes any entity,
15 including a limited liability company formed under the
16 Illinois Limited Liability Company Act, classified as a
17 partnership for federal income tax purposes.

18 The term "partnership" does not include a syndicate,
19 group, pool, joint venture, or other unincorporated
20 organization established for the sole purpose of playing
21 the Illinois State Lottery.

22 (17) Part-year resident. The term "part-year
23 resident" means an individual who became a resident
24 during the taxable year or ceased to be a resident during
25 the taxable year. Under Section 1501 (a) (20) (A) (i)
26 residence commences with presence in this State for other
27 than a temporary or transitory purpose and ceases with
28 absence from this State for other than a temporary or
29 transitory purpose. Under Section 1501 (a) (20) (A) (ii)
30 residence commences with the establishment of domicile in
31 this State and ceases with the establishment of domicile
32 in another State.

33 (18) Person. The term "person" shall be construed
34 to mean and include an individual, a trust, estate,

1 partnership, association, firm, company, corporation,
2 limited liability company, or fiduciary. For purposes of
3 Section 1301 and 1302 of this Act, a "person" means (i)
4 an individual, (ii) a corporation, (iii) an officer,
5 agent, or employee of a corporation, (iv) a member, agent
6 or employee of a partnership, or (v) a member, manager,
7 employee, officer, director, or agent of a limited
8 liability company who in such capacity commits an offense
9 specified in Section 1301 and 1302.

10 (18A) Records. The term "records" includes all
11 data maintained by the taxpayer, whether on paper,
12 microfilm, microfiche, or any type of machine-sensible
13 data compilation.

14 (19) Regulations. The term "regulations" includes
15 rules promulgated and forms prescribed by the Department.

16 (20) Resident. The term "resident" means:

17 (A) an individual (i) who is in this State for
18 other than a temporary or transitory purpose during
19 the taxable year; or (ii) who is domiciled in this
20 State but is absent from the State for a temporary
21 or transitory purpose during the taxable year;

22 (B) The estate of a decedent who at his or her
23 death was domiciled in this State;

24 (C) A trust created by a will of a decedent
25 who at his death was domiciled in this State; and

26 (D) An irrevocable trust, the grantor of which
27 was domiciled in this State at the time such trust
28 became irrevocable. For purpose of this
29 subparagraph, a trust shall be considered
30 irrevocable to the extent that the grantor is not
31 treated as the owner thereof under Sections 671
32 through 678 of the Internal Revenue Code.

33 (21) Sales. The term "sales" means all gross
34 receipts of the taxpayer not allocated under Sections

1 301, 302 and 303.

2 (22) State. The term "state" when applied to a
3 jurisdiction other than this State means any state of the
4 United States, the District of Columbia, the Commonwealth
5 of Puerto Rico, any Territory or Possession of the United
6 States, and any foreign country, or any political
7 subdivision of any of the foregoing. For purposes of the
8 foreign tax credit under Section 601, the term "state"
9 means any state of the United States, the District of
10 Columbia, the Commonwealth of Puerto Rico, and any
11 territory or possession of the United States, or any
12 political subdivision of any of the foregoing, effective
13 for tax years ending on or after December 31, 1989.

14 (23) Taxable year. The term "taxable year" means
15 the calendar year, or the fiscal year ending during such
16 calendar year, upon the basis of which the base income is
17 computed under this Act. "Taxable year" means, in the
18 case of a return made for a fractional part of a year
19 under the provisions of this Act, the period for which
20 such return is made.

21 (24) Taxpayer. The term "taxpayer" means any person
22 subject to the tax imposed by this Act.

23 (25) International banking facility. The term
24 international banking facility shall have the same
25 meaning as is set forth in the Illinois Banking Act or as
26 is set forth in the laws of the United States or
27 regulations of the Board of Governors of the Federal
28 Reserve System.

29 (26) Income Tax Return Preparer.

30 (A) The term "income tax return preparer"
31 means any person who prepares for compensation, or
32 who employs one or more persons to prepare for
33 compensation, any return of tax imposed by this Act
34 or any claim for refund of tax imposed by this Act.

1 The preparation of a substantial portion of a return
2 or claim for refund shall be treated as the
3 preparation of that return or claim for refund.

4 (B) A person is not an income tax return
5 preparer if all he or she does is

6 (i) furnish typing, reproducing, or other
7 mechanical assistance;

8 (ii) prepare returns or claims for
9 refunds for the employer by whom he or she is
10 regularly and continuously employed;

11 (iii) prepare as a fiduciary returns or
12 claims for refunds for any person; or

13 (iv) prepare claims for refunds for a
14 taxpayer in response to any notice of
15 deficiency issued to that taxpayer or in
16 response to any waiver of restriction after the
17 commencement of an audit of that taxpayer or of
18 another taxpayer if a determination in the
19 audit of the other taxpayer directly or
20 indirectly affects the tax liability of the
21 taxpayer whose claims he or she is preparing.

22 (27) Unitary business group. The term "unitary
23 business group" means a group of persons related through
24 common ownership whose business activities are integrated
25 with, dependent upon and contribute to each other. The
26 group will not include those members whose business
27 activity outside the United States is 80% or more of any
28 such member's total business activity; for purposes of
29 this paragraph and clause (a) (3) (B) (ii) of Section
30 304, business activity within the United States shall be
31 measured by means of the factors ordinarily applicable
32 under subsections (a), (b), (c), (d), or (h) of Section
33 304 except that, in the case of members ordinarily
34 required to apportion business income by means of the 3

1 factor formula of property, payroll and sales specified
2 in subsection (a) of Section 304, including the formula
3 as weighted in subsection (h) of Section 304, such
4 members shall not use the sales factor in the computation
5 and the results of the property and payroll factor
6 computations of subsection (a) of Section 304 shall be
7 divided by 2 (by one if either the property or payroll
8 factor has a denominator of zero). The computation
9 required by the preceding sentence shall, in each case,
10 involve the division of the member's property, payroll,
11 or revenue miles in the United States, insurance premiums
12 on property or risk in the United States, or financial
13 organization business income from sources within the
14 United States, as the case may be, by the respective
15 worldwide figures for such items. Common ownership in
16 the case of corporations is the direct or indirect
17 control or ownership of more than 50% of the outstanding
18 voting stock of the persons carrying on unitary business
19 activity. Unitary business activity can ordinarily be
20 illustrated where the activities of the members are: (1)
21 in the same general line (such as manufacturing,
22 wholesaling, retailing of tangible personal property,
23 insurance, transportation or finance); or (2) are steps
24 in a vertically structured enterprise or process (such as
25 the steps involved in the production of natural
26 resources, which might include exploration, mining,
27 refining, and marketing); and, in either instance, the
28 members are functionally integrated through the exercise
29 of strong centralized management (where, for example,
30 authority over such matters as purchasing, financing, tax
31 compliance, product line, personnel, marketing and
32 capital investment is not left to each member). In no
33 event, however, will any unitary business group include
34 members which are ordinarily required to apportion

1 business income under different subsections of Section
2 304 except that for tax years ending on or after December
3 31, 1987 this prohibition shall not apply to a unitary
4 business group composed of one or more taxpayers all of
5 which apportion business income pursuant to subsection
6 (b) of Section 304, or all of which apportion business
7 income pursuant to subsection (d) of Section 304, and a
8 holding company of such single-factor taxpayers (see
9 definition of "financial organization" for rule regarding
10 holding companies of financial organizations). If a
11 unitary business group would, but for the preceding
12 sentence, include members that are ordinarily required to
13 apportion business income under different subsections of
14 Section 304, then for each subsection of Section 304 for
15 which there are two or more members, there shall be a
16 separate unitary business group composed of such members.
17 For purposes of the preceding two sentences, a member is
18 "ordinarily required to apportion business income" under
19 a particular subsection of Section 304 if it would be
20 required to use the apportionment method prescribed by
21 such subsection except for the fact that it derives
22 business income solely from Illinois. If the unitary
23 business group members' accounting periods differ, the
24 common parent's accounting period or, if there is no
25 common parent, the accounting period of the member that
26 is expected to have, on a recurring basis, the greatest
27 Illinois income tax liability must be used to determine
28 whether to use the apportionment method provided in
29 subsection (a) or subsection (h) of Section 304. The
30 prohibition against membership in a unitary business
31 group for taxpayers ordinarily required to apportion
32 income under different subsections of Section 304 does
33 not apply to taxpayers required to apportion income under
34 subsection (a) and subsection (h) of Section 304. The

1 provisions of this amendatory Act of 1998 apply to tax
2 years ending on or after December 31, 1998.

3 (28) Subchapter S corporation. The term
4 "Subchapter S corporation" means a corporation for which
5 there is in effect an election under Section 1362 of the
6 Internal Revenue Code, or for which there is a federal
7 election to opt out of the provisions of the Subchapter S
8 Revision Act of 1982 and have applied instead the prior
9 federal Subchapter S rules as in effect on July 1, 1982.

10 (b) Other definitions.

11 (1) Words denoting number, gender, and so forth,
12 when used in this Act, where not otherwise distinctly
13 expressed or manifestly incompatible with the intent
14 thereof:

15 (A) Words importing the singular include and
16 apply to several persons, parties or things;

17 (B) Words importing the plural include the
18 singular; and

19 (C) Words importing the masculine gender
20 include the feminine as well.

21 (2) "Company" or "association" as including
22 successors and assigns. The word "company" or
23 "association", when used in reference to a corporation,
24 shall be deemed to embrace the words "successors and
25 assigns of such company or association", and in like
26 manner as if these last-named words, or words of similar
27 import, were expressed.

28 (3) Other terms. Any term used in any Section of
29 this Act with respect to the application of, or in
30 connection with, the provisions of any other Section of
31 this Act shall have the same meaning as in such other
32 Section.

33 (Source: P.A. 90-613, eff. 7-9-98; 91-535, eff. 1-1-00;
34 91-913, eff. 1-1-01.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.

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35 ILCS 5/202	from Ch. 120, par. 2-202
35 ILCS 5/203	from Ch. 120, par. 2-203
35 ILCS 5/209	
35 ILCS 5/502	from Ch. 120, par. 5-502
35 ILCS 5/506	from Ch. 120, par. 5-506
35 ILCS 5/601.1	Ch. 120, par. 6-601.1
35 ILCS 5/701	from Ch. 120, par. 7-701
35 ILCS 5/905	from Ch. 120, par. 9-905
35 ILCS 5/911	from Ch. 120, par. 9-911
35 ILCS 5/1501	from Ch. 120, par. 15-1501