



Rep. David McSweeney

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1 AMENDMENT TO HOUSE BILL 4381

2 AMENDMENT NO. _____. Amend House Bill 4381 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 202, 304, and 1501 and by adding Section
6 204.5 as follows:

7 (35 ILCS 5/202) (from Ch. 120, par. 2-202)

8 Sec. 202. Net Income Defined. In general. For purposes of
9 this Act, a taxpayer's net income for a taxable year shall be
10 that portion of his base income for such year which is
11 allocable to this State under the provisions of Article 3, less
12 the standard exemption allowed by Section 204, the Illinois
13 manufacturing deduction allowed by Section 204.5, and the
14 deduction allowed by Section 207.

15 (Source: P.A. 92-846, eff. 8-23-02.)

1 (35 ILCS 5/204.5 new)

2 Sec. 204.5. Illinois manufacturing deduction.

3 (a) Allowance of deduction. For taxable years ending on and
4 after December 31, 2016, in computing net income under this
5 Act, there shall be allowed the Illinois manufacturing
6 deduction in an amount equal to the taxpayer's net income from
7 manufacturing multiplied by a fraction, the numerator of which
8 is the sum of the manufacturing property factor (if any) and
9 the manufacturing payroll factor (if any), and the denominator
10 of which is 2 reduced by the number of factors which have a
11 denominator of zero. For taxable years ending on or after
12 December 31, 2016 and ending prior to December 31, 2018, the
13 amount of the Illinois manufacturing deduction shall be
14 modified as provided in subsection (b).

15 (b) Notwithstanding any other provision of law: (i) for
16 taxable years ending on or after December 31, 2016 and ending
17 prior to December 31, 2017, the amount of the Illinois
18 manufacturing deduction shall be one-third of the amount
19 calculated under subsection (a); (ii) for taxable years ending
20 on or after December 31, 2017 and ending prior to December 31,
21 2018, the amount of the Illinois manufacturing deduction shall
22 be two-thirds of the amount calculated under subsection (a);
23 and (iii) for taxable years ending on or after December 31,
24 2018, the Illinois manufacturing deduction shall be the amount
25 calculated under subsection (a).

26 (c) As used in this Section:

1 "Manufacturing" and "tangible personal property" have the
2 same meanings as provided in paragraph (3) of subsection (e) of
3 Section 201.

4 "Manufacturing property factor" means a fraction, the
5 numerator of which is the average value of the taxpayer's real
6 and tangible personal property owned or rented and used by the
7 taxpayer in manufacturing in this State, and the denominator of
8 which is the average value of all of the taxpayer's real and
9 tangible personal property owned or rented and used by the
10 taxpayer in manufacturing. For purposes of this paragraph, the
11 average value of the taxpayer's property shall be determined by
12 applying the provisions of subparagraphs (B) and (C) of
13 paragraph (1) of subsection (a) of Section 304 of this Act.

14 "Manufacturing payroll factor" means a fraction, the
15 numerator of which is the total amount paid by the taxpayer in
16 this State as compensation that is a direct cost of
17 manufacturing, and the denominator of which is the total
18 compensation paid by the taxpayer everywhere that is a direct
19 cost of manufacturing.

20 "Net income from manufacturing" means the taxpayer's net
21 income for the taxable year (computed without regard to the
22 exemption under Section 204 or the deduction under Section
23 207), multiplied by a fraction, the numerator of which is the
24 total sales of tangible personal property manufactured by the
25 taxpayer, and the denominator of which is the total sales of
26 the taxpayer for the taxable year.

1 (d) Unitary business groups. In the case of a taxpayer that
2 is a member of a unitary business group (as defined in
3 paragraph (27) of subsection (a) of Section 1501), consistent
4 with rules adopted by the Department, the deduction under this
5 Section shall be computed in a manner consistent with the
6 combined apportionment method required under subsection (e) of
7 Section 304.

8 (e) Multiple trades or businesses. The Department shall
9 adopt rules consistent with the provisions of this Section to
10 determine the deduction in the case of a taxpayer that operates
11 more than one separate and distinct trade or business.

12 (f) Sunset exemption. This Section is exempt from the
13 provisions of Section 250.

14 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

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

11 (1) Property factor.

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

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

25 (C) The average value of property shall be determined
26 by averaging the values at the beginning and ending of the

1 taxable year but the Director may require the averaging of
2 monthly values during the taxable year if reasonably
3 required to reflect properly the average value of the
4 person's property.

5 (2) Payroll factor.

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

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

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

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

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

26 (iv) Compensation paid to nonresident professional

1 athletes.

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

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

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

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

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

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

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

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

1 activities are conducted at team facilities.

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

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

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

1 performing any services for the team, shall not
2 be treated as duty days.

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

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

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

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

25 This compensation shall include, but is not
26 limited to, salaries, wages, bonuses as described

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

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

1 (3) Sales factor.

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

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

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

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

1 property is purchased for resale.

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

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

11 (ii) Place of utilization.

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

26 (II) A copyright is utilized in a state to the

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

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

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

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

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

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

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

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

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

1 "Call-by-call Basis" means any method of charging
2 for telecommunications services where the price is
3 measured by individual calls.

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

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

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

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

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

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

1 services.

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

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

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

26 "Prepaid telecommunication service" means the

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

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

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

25 "Service address" means:

26 (a) The location of the telecommunications

1 equipment to which a customer's call is charged and
2 from which the call originates or terminates,
3 regardless of where the call is billed or paid;

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

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

15 "Telecommunications service" means the electronic
16 transmission, conveyance, or routing of voice, data,
17 audio, video, or any other information or signals to a
18 point, or between or among points. The term
19 "telecommunications service" includes such
20 transmission, conveyance, or routing in which computer
21 processing applications are used to act on the form,
22 code or protocol of the content for purposes of
23 transmission, conveyance or routing without regard to
24 whether such service is referred to as voice over
25 Internet protocol services or is classified by the
26 Federal Communications Commission as enhanced or value

1 added. "Telecommunications service" does not include:

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

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

10 (c) Tangible personal property;

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

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

15 (f) Internet access service;

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

26 (h) "Ancillary services"; or

1 (i) Digital products "delivered
2 electronically", including but not limited to
3 software, music, video, reading materials or ring
4 tones.

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

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

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

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

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

25 (iii) Receipts from the sale of postpaid
26 telecommunications service at retail are in this State

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

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

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

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

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

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

1 located in this State and the other is located
2 outside of this State, which segments are
3 separately charged.

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

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

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

25 (a) 100% of the receipts from access fees
26 attributable to intrastate telecommunications

1 service that both originates and terminates in
2 this State.

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

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

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

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

1 in this State if the broadcasting services are received in
2 this State. For purposes of this paragraph (B-7), the
3 following terms have the following meanings:

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

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

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

1 either through a station, a network, or a cable system.

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

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

25 (i) In the case of advertising revenue from
26 broadcasting, the customer is the advertiser and

1 the service is received in this State if the
2 commercial domicile of the advertiser is in this
3 State.

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

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

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

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

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

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

10 (B-8) Gross receipts from winnings under the Illinois
11 Lottery Law from the assignment of a prize under Section
12 13.1 ~~13-1~~ of the Illinois Lottery Law are received in this
13 State. This paragraph (B-8) applies only to taxable years
14 ending on or after December 31, 2013.

15 (C) For taxable years ending before December 31, 2008,
16 sales, other than sales governed by paragraphs (B), (B-1),
17 (B-2), and (B-8) are in this State if:

18 (i) The income-producing activity is performed in
19 this State; or

20 (ii) The income-producing activity is performed
21 both within and without this State and a greater
22 proportion of the income-producing activity is
23 performed within this State than without this State,
24 based on performance costs.

25 (C-5) For taxable years ending on or after December 31,
26 2008, sales, other than sales governed by paragraphs (B),

1 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
2 the following criteria are met:

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

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

15 (iii) In the case of interest, net gains (but not
16 less than zero) and other items of income from
17 intangible personal property, the sale is in this State
18 if:

19 (a) in the case of a taxpayer who is a dealer
20 in the item of intangible personal property within
21 the meaning of Section 475 of the Internal Revenue
22 Code, the income or gain is received from a
23 customer in this State. For purposes of this
24 subparagraph, a customer is in this State if the
25 customer is an individual, trust or estate who is a
26 resident of this State and, for all other

1 customers, if the customer's commercial domicile
2 is in this State. Unless the dealer has actual
3 knowledge of the residence or commercial domicile
4 of a customer during a taxable year, the customer
5 shall be deemed to be a customer in this State if
6 the billing address of the customer, as shown in
7 the records of the dealer, is in this State; or

8 (b) in all other cases, if the
9 income-producing activity of the taxpayer is
10 performed in this State or, if the
11 income-producing activity of the taxpayer is
12 performed both within and without this State, if a
13 greater proportion of the income-producing
14 activity of the taxpayer is performed within this
15 State than in any other state, based on performance
16 costs.

17 (iv) Sales of services are in this State if the
18 services are received in this State. For the purposes
19 of this section, gross receipts from the performance of
20 services provided to a corporation, partnership, or
21 trust may only be attributed to a state where that
22 corporation, partnership, or trust has a fixed place of
23 business. If the state where the services are received
24 is not readily determinable or is a state where the
25 corporation, partnership, or trust receiving the
26 service does not have a fixed place of business, the

1 services shall be deemed to be received at the location
2 of the office of the customer from which the services
3 were ordered in the regular course of the customer's
4 trade or business. If the ordering office cannot be
5 determined, the services shall be deemed to be received
6 at the office of the customer to which the services are
7 billed. If the taxpayer is not taxable in the state in
8 which the services are received, the sale must be
9 excluded from both the numerator and the denominator of
10 the sales factor. The Department shall adopt rules
11 prescribing where specific types of service are
12 received, including, but not limited to, publishing,
13 and utility service.

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

23 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
24 ending on or after December 31, 1999, provided that a
25 taxpayer may elect to apply the provisions of these
26 paragraphs to prior tax years. Such election shall be made

1 in the form and manner prescribed by the Department, shall
2 be irrevocable, and shall apply to all tax years; provided
3 that, if a taxpayer's Illinois income tax liability for any
4 tax year, as assessed under Section 903 prior to January 1,
5 1999, was computed in a manner contrary to the provisions
6 of paragraphs (B-1) or (B-2), no refund shall be payable to
7 the taxpayer for that tax year to the extent such refund is
8 the result of applying the provisions of paragraph (B-1) or
9 (B-2) retroactively. In the case of a unitary business
10 group, such election shall apply to all members of such
11 group for every tax year such group is in existence, but
12 shall not apply to any taxpayer for any period during which
13 that taxpayer is not a member of such group.

14 (b) Insurance companies.

15 (1) In general. Except as otherwise provided by
16 paragraph (2), business income of an insurance company for
17 a taxable year shall be apportioned to this State by
18 multiplying such income by a fraction, the numerator of
19 which is the direct premiums written for insurance upon
20 property or risk in this State, and the denominator of
21 which is the direct premiums written for insurance upon
22 property or risk everywhere. For purposes of this
23 subsection, the term "direct premiums written" means the
24 total amount of direct premiums written, assessments and
25 annuity considerations as reported for the taxable year on
26 the annual statement filed by the company with the Illinois

1 Director of Insurance in the form approved by the National
2 Convention of Insurance Commissioners or such other form as
3 may be prescribed in lieu thereof.

4 (2) Reinsurance. If the principal source of premiums
5 written by an insurance company consists of premiums for
6 reinsurance accepted by it, the business income of such
7 company shall be apportioned to this State by multiplying
8 such income by a fraction, the numerator of which is the
9 sum of (i) direct premiums written for insurance upon
10 property or risk in this State, plus (ii) premiums written
11 for reinsurance accepted in respect of property or risk in
12 this State, and the denominator of which is the sum of
13 (iii) direct premiums written for insurance upon property
14 or risk everywhere, plus (iv) premiums written for
15 reinsurance accepted in respect of property or risk
16 everywhere. For purposes of this paragraph, premiums
17 written for reinsurance accepted in respect of property or
18 risk in this State, whether or not otherwise determinable,
19 may, at the election of the company, be determined on the
20 basis of the proportion which premiums written for
21 reinsurance accepted from companies commercially domiciled
22 in Illinois bears to premiums written for reinsurance
23 accepted from all sources, or, alternatively, in the
24 proportion which the sum of the direct premiums written for
25 insurance upon property or risk in this State by each
26 ceding company from which reinsurance is accepted bears to

1 the sum of the total direct premiums written by each such
2 ceding company for the taxable year. The election made by a
3 company under this paragraph for its first taxable year
4 ending on or after December 31, 2011, shall be binding for
5 that company for that taxable year and for all subsequent
6 taxable years, and may be altered only with the written
7 permission of the Department, which shall not be
8 unreasonably withheld.

9 (c) Financial organizations.

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

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

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

26 (C) Dividends, and interest from Illinois

1 customers, which are received within this State;

2 (D) Interest charged to customers at places of
3 business maintained within this State for carrying
4 debit balances of margin accounts, without deduction
5 of any costs incurred in carrying such accounts; and

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

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

20 (A) Adjusted Income. The adjusted income of an
21 international banking facility is its income reduced
22 by the amount of the floor amount.

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

1 (i) The numerator shall be:

2 The average aggregate, determined on a
3 quarterly basis, of the financial organization's
4 loans to banks in foreign countries, to foreign
5 domiciled borrowers (except where secured
6 primarily by real estate) and to foreign
7 governments and other foreign official
8 institutions, as reported for its branches,
9 agencies and offices within the state on its
10 "Consolidated Report of Condition", Schedule A,
11 Lines 2.c., 5.b., and 7.a., which was filed with
12 the Federal Deposit Insurance Corporation and
13 other regulatory authorities, for the year 1980,
14 minus

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

26 (ii) the denominator shall be the average

1 aggregate, determined on a quarterly basis, of the
2 international banking facility's loans to banks in
3 foreign countries, to foreign domiciled borrowers
4 (except where secured primarily by real estate)
5 and to foreign governments and other foreign
6 official institutions, which were recorded in its
7 financial accounts for the current taxable year.

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

25 (3) For taxable years ending on or after December 31,
26 2008, the business income of a financial organization shall

1 be apportioned to this State by multiplying such income by
2 a fraction, the numerator of which is its gross receipts
3 from sources in this State or otherwise attributable to
4 this State's marketplace and the denominator of which is
5 its gross receipts everywhere during the taxable year.
6 "Gross receipts" for purposes of this subparagraph (3)
7 means gross income, including net taxable gain on
8 disposition of assets, including securities and money
9 market instruments, when derived from transactions and
10 activities in the regular course of the financial
11 organization's trade or business. The following examples
12 are illustrative:

13 (i) Receipts from the lease or rental of real or
14 tangible personal property are in this State if the
15 property is located in this State during the rental
16 period. Receipts from the lease or rental of tangible
17 personal property that is characteristically moving
18 property, including, but not limited to, motor
19 vehicles, rolling stock, aircraft, vessels, or mobile
20 equipment are from sources in this State to the extent
21 that the property is used in this State.

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

1 (iii) Interest income, commissions, fees, gains on
2 disposition, and other receipts from consumer loans
3 that are not secured by real or tangible personal
4 property are from sources in this State if the debtor
5 is a resident of this State.

6 (iv) Interest income, commissions, fees, gains on
7 disposition, and other receipts from commercial loans
8 and installment obligations that are not secured by
9 real or tangible personal property are from sources in
10 this State if the proceeds of the loan are to be
11 applied in this State. If it cannot be determined where
12 the funds are to be applied, the income and receipts
13 are from sources in this State if the office of the
14 borrower from which the loan was negotiated in the
15 regular course of business is located in this State. If
16 the location of this office cannot be determined, the
17 income and receipts shall be excluded from the
18 numerator and denominator of the sales factor.

19 (v) Interest income, fees, gains on disposition,
20 service charges, merchant discount income, and other
21 receipts from credit card receivables are from sources
22 in this State if the card charges are regularly billed
23 to a customer in this State.

24 (vi) Receipts from the performance of services,
25 including, but not limited to, fiduciary, advisory,
26 and brokerage services, are in this State if the

1 services are received in this State within the meaning
2 of subparagraph (a) (3) (C-5) (iv) of this Section.

3 (vii) Receipts from the issuance of travelers
4 checks and money orders are from sources in this State
5 if the checks and money orders are issued from a
6 location within this State.

7 (viii) Receipts from investment assets and
8 activities and trading assets and activities are
9 included in the receipts factor as follows:

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

1 (A) The receipts factor shall include the
2 amount by which interest from federal funds
3 sold and securities purchased under resale
4 agreements exceeds interest expense on federal
5 funds purchased and securities sold under
6 repurchase agreements.

7 (B) The receipts factor shall include the
8 amount by which interest, dividends, gains and
9 other income from trading assets and
10 activities, including but not limited to
11 assets and activities in the matched book, in
12 the arbitrage book, and foreign currency
13 transactions, exceed amounts paid in lieu of
14 interest, amounts paid in lieu of dividends,
15 and losses from such assets and activities.

16 (2) The numerator of the receipts factor
17 includes interest, dividends, net gains (but not
18 less than zero), and other income from investment
19 assets and activities and from trading assets and
20 activities described in paragraph (1) of this
21 subsection that are attributable to this State.

22 (A) The amount of interest, dividends, net
23 gains (but not less than zero), and other
24 income from investment assets and activities
25 in the investment account to be attributed to
26 this State and included in the numerator is

1 determined by multiplying all such income from
2 such assets and activities by a fraction, the
3 numerator of which is the gross income from
4 such assets and activities which are properly
5 assigned to a fixed place of business of the
6 taxpayer within this State and the denominator
7 of which is the gross income from all such
8 assets and activities.

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

24 (C) The amount of interest, dividends,
25 gains, and other income from trading assets and
26 activities, including but not limited to

1 assets and activities in the matched book, in
2 the arbitrage book and foreign currency
3 transactions (but excluding amounts described
4 in subparagraphs (A) or (B) of this paragraph),
5 attributable to this State and included in the
6 numerator is determined by multiplying the
7 amount described in subparagraph (B) of
8 paragraph (1) of this subsection by a fraction,
9 the numerator of which is the gross income from
10 such trading assets and activities which are
11 properly assigned to a fixed place of business
12 of the taxpayer within this State and the
13 denominator of which is the gross income from
14 all such assets and activities.

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

24 (i) the taxpayer has assigned, in the
25 regular course of its business, such asset
26 or activity on its records to a fixed place

1 of business consistent with federal or
2 state regulatory requirements;

3 (ii) such assignment on its records is
4 based upon substantive contacts of the
5 asset or activity to such fixed place of
6 business; and

7 (iii) the taxpayer uses such records
8 reflecting assignment of such assets or
9 activities for the filing of all state and
10 local tax returns for which an assignment
11 of such assets or activities to a fixed
12 place of business is required.

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

1 subparagraph (D) of paragraph (2) of this
2 subsection does not apply or with respect to
3 which that presumption has been rebutted, that
4 asset or activity is properly assigned to the
5 state in which the taxpayer's commercial
6 domicile is located. For purposes of this
7 subparagraph (E), it shall be presumed,
8 subject to rebuttal, that taxpayer's
9 commercial domicile is in the state of the
10 United States or the District of Columbia to
11 which the greatest number of employees are
12 regularly connected with the management of the
13 investment or trading income or out of which
14 they are working, irrespective of where the
15 services of such employees are performed, as of
16 the last day of the taxable year.

17 (4) (Blank).

18 (5) (Blank).

19 (c-1) Federally regulated exchanges. For taxable years
20 ending on or after December 31, 2012, business income of a
21 federally regulated exchange shall, at the option of the
22 federally regulated exchange, be apportioned to this State by
23 multiplying such income by a fraction, the numerator of which
24 is its business income from sources within this State, and the
25 denominator of which is its business income from all sources.
26 For purposes of this subsection, the business income within

1 this State of a federally regulated exchange is the sum of the
2 following:

3 (1) Receipts attributable to transactions executed on
4 a physical trading floor if that physical trading floor is
5 located in this State.

6 (2) Receipts attributable to all other matching,
7 execution, or clearing transactions, including without
8 limitation receipts from the provision of matching,
9 execution, or clearing services to another entity,
10 multiplied by (i) for taxable years ending on or after
11 December 31, 2012 but before December 31, 2013, 63.77%; and
12 (ii) for taxable years ending on or after December 31,
13 2013, 27.54%.

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

18 "Federally regulated exchange" means (i) a "registered
19 entity" within the meaning of 7 U.S.C. Section 1a(40)(A), (B),
20 or (C), (ii) an "exchange" or "clearing agency" within the
21 meaning of 15 U.S.C. Section 78c (a)(1) or (23), (iii) any such
22 entities regulated under any successor regulatory structure to
23 the foregoing, and (iv) all taxpayers who are members of the
24 same unitary business group as a federally regulated exchange,
25 determined without regard to the prohibition in Section
26 1501(a)(27) of this Act against including in a unitary business

1 group taxpayers who are ordinarily required to apportion
2 business income under different subsections of this Section;
3 provided that this subparagraph (iv) shall apply only if 50% or
4 more of the business receipts of the unitary business group
5 determined by application of this subparagraph (iv) for the
6 taxable year are attributable to the matching, execution, or
7 clearing of transactions conducted by an entity described in
8 subparagraph (i), (ii), or (iii) of this paragraph.

9 In no event shall the Illinois apportionment percentage
10 computed in accordance with this subsection (c-1) for any
11 taxpayer for any tax year be less than the Illinois
12 apportionment percentage computed under this subsection (c-1)
13 for that taxpayer for the first full tax year ending on or
14 after December 31, 2013 for which this subsection (c-1) applied
15 to the taxpayer.

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

20 (1) Such business income (other than that derived from
21 transportation by pipeline) shall be apportioned to this
22 State by multiplying such income by a fraction, the
23 numerator of which is the revenue miles of the person in
24 this State, and the denominator of which is the revenue
25 miles of the person everywhere. For purposes of this
26 paragraph, a revenue mile is the transportation of 1

1 passenger or 1 net ton of freight the distance of 1 mile
2 for a consideration. Where a person is engaged in the
3 transportation of both passengers and freight, the
4 fraction above referred to shall be determined by means of
5 an average of the passenger revenue mile fraction and the
6 freight revenue mile fraction, weighted to reflect the
7 person's

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

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

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

25 (3) For taxable years ending on or after December 31,
26 2008, business income derived from providing

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

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

26 (B) relative gross receipts from passenger and

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

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

18 (e) Combined apportionment. Where 2 or more persons are
19 engaged in a unitary business as described in subsection
20 (a) (27) of Section 1501, a part of which is conducted in this
21 State by one or more members of the group, the business income
22 attributable to this State by any such member or members shall
23 be apportioned by means of the combined apportionment method.
24 Notwithstanding any other provision of law, for taxable years
25 ending on or after December 31, 2016 and ending prior to
26 December 31, 2017, for the purposes of determining the business

1 income attributable to this State by a member of a unitary
2 business group, the business income of any member of the
3 unitary business group that is derived from an area over which
4 the United States has asserted jurisdiction or claimed
5 exclusive rights with respect to the exploration for or
6 exploitation of natural resources, other than the 50 states and
7 the District of Columbia, shall be reduced by two-thirds.
8 Notwithstanding any other provision of law, for taxable years
9 ending on or after December 31, 2017 and ending prior to
10 December 31, 2018, for the purposes of determining the business
11 income attributable to this State by a member of a unitary
12 business group, the total business income of any member of the
13 unitary business group that is derived from an area over which
14 the United States has asserted jurisdiction or claimed
15 exclusive rights with respect to the exploration for or
16 exploitation of natural resources, other than the 50 states and
17 the District of Columbia, shall be reduced by one-third.

18 (f) Alternative allocation. If the allocation and
19 apportionment provisions of subsections (a) through (e) and of
20 subsection (h) do not, for taxable years ending before December
21 31, 2008, fairly represent the extent of a person's business
22 activity in this State, or, for taxable years ending on or
23 after December 31, 2008, fairly represent the market for the
24 person's goods, services, or other sources of business income,
25 the person may petition for, or the Director may, without a
26 petition, permit or require, in respect of all or any part of

1 the person's business activity, if reasonable:

2 (1) Separate accounting;

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

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

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

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

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

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

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

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

25 If, in any tax year ending on or after December 31, 1998 and
26 before December 31, 2000, the denominator of the payroll,

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

6 (Source: P.A. 97-507, eff. 8-23-11; 97-636, eff. 6-1-12;
7 98-478, eff. 1-1-14; 98-496, eff. 1-1-14; 98-756, eff. 7-16-14;
8 revised 10-19-15.)

9 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

10 Sec. 1501. Definitions.

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

14 (1) Business income. The term "business income" means
15 all income that may be treated as apportionable business
16 income under the Constitution of the United States.
17 Business income is net of the deductions allocable thereto.
18 Such term does not include compensation or the deductions
19 allocable thereto. For each taxable year beginning on or
20 after January 1, 2003, a taxpayer may elect to treat all
21 income other than compensation as business income. This
22 election shall be made in accordance with rules adopted by
23 the Department and, once made, shall be irrevocable.

24 (1.5) Captive real estate investment trust:

25 (A) The term "captive real estate investment

1 trust" means a corporation, trust, or association:

2 (i) that is considered a real estate
3 investment trust for the taxable year under
4 Section 856 of the Internal Revenue Code;

5 (ii) the certificates of beneficial interest
6 or shares of which are not regularly traded on an
7 established securities market; and

8 (iii) of which more than 50% of the voting
9 power or value of the beneficial interest or
10 shares, at any time during the last half of the
11 taxable year, is owned or controlled, directly,
12 indirectly, or constructively, by a single
13 corporation.

14 (B) The term "captive real estate investment
15 trust" does not include:

16 (i) a real estate investment trust of which
17 more than 50% of the voting power or value of the
18 beneficial interest or shares is owned or
19 controlled, directly, indirectly, or
20 constructively, by:

21 (a) a real estate investment trust, other
22 than a captive real estate investment trust;

23 (b) a person who is exempt from taxation
24 under Section 501 of the Internal Revenue Code,
25 and who is not required to treat income
26 received from the real estate investment trust

1 as unrelated business taxable income under
2 Section 512 of the Internal Revenue Code;

3 (c) a listed Australian property trust, if
4 no more than 50% of the voting power or value
5 of the beneficial interest or shares of that
6 trust, at any time during the last half of the
7 taxable year, is owned or controlled, directly
8 or indirectly, by a single person;

9 (d) an entity organized as a trust,
10 provided a listed Australian property trust
11 described in subparagraph (c) owns or
12 controls, directly or indirectly, or
13 constructively, 75% or more of the voting power
14 or value of the beneficial interests or shares
15 of such entity; or

16 (e) an entity that is organized outside of
17 the laws of the United States and that
18 satisfies all of the following criteria:

19 (1) at least 75% of the entity's total
20 asset value at the close of its taxable
21 year is represented by real estate assets
22 (as defined in Section 856(c)(5)(B) of the
23 Internal Revenue Code, thereby including
24 shares or certificates of beneficial
25 interest in any real estate investment
26 trust), cash and cash equivalents, and

1 U.S. Government securities;

2 (2) the entity is not subject to tax on
3 amounts that are distributed to its
4 beneficial owners or is exempt from
5 entity-level taxation;

6 (3) the entity distributes at least
7 85% of its taxable income (as computed in
8 the jurisdiction in which it is organized)
9 to the holders of its shares or
10 certificates of beneficial interest on an
11 annual basis;

12 (4) either (i) the shares or
13 beneficial interests of the entity are
14 regularly traded on an established
15 securities market or (ii) not more than 10%
16 of the voting power or value in the entity
17 is held, directly, indirectly, or
18 constructively, by a single entity or
19 individual; and

20 (5) the entity is organized in a
21 country that has entered into a tax treaty
22 with the United States; or

23 (ii) during its first taxable year for which it
24 elects to be treated as a real estate investment
25 trust under Section 856(c)(1) of the Internal
26 Revenue Code, a real estate investment trust the

1 certificates of beneficial interest or shares of
2 which are not regularly traded on an established
3 securities market, but only if the certificates of
4 beneficial interest or shares of the real estate
5 investment trust are regularly traded on an
6 established securities market prior to the earlier
7 of the due date (including extensions) for filing
8 its return under this Act for that first taxable
9 year or the date it actually files that return.

10 (C) For the purposes of this subsection (1.5), the
11 constructive ownership rules prescribed under Section
12 318(a) of the Internal Revenue Code, as modified by
13 Section 856(d)(5) of the Internal Revenue Code, apply
14 in determining the ownership of stock, assets, or net
15 profits of any person.

16 (D) For the purposes of this item (1.5), for
17 taxable years ending on or after August 16, 2007, the
18 voting power or value of the beneficial interest or
19 shares of a real estate investment trust does not
20 include any voting power or value of beneficial
21 interest or shares in a real estate investment trust
22 held directly or indirectly in a segregated asset
23 account by a life insurance company (as described in
24 Section 817 of the Internal Revenue Code) to the extent
25 such voting power or value is for the benefit of
26 entities or persons who are either immune from taxation

1 or exempt from taxation under subtitle A of the
2 Internal Revenue Code.

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

6 (3) Compensation. The term "compensation" means wages,
7 salaries, commissions and any other form of remuneration
8 paid to employees for personal services.

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

15 (5) Department. The term "Department" means the
16 Department of Revenue of this State.

17 (6) Director. The term "Director" means the Director of
18 Revenue of this State.

19 (7) Fiduciary. The term "fiduciary" means a guardian,
20 trustee, executor, administrator, receiver, or any person
21 acting in any fiduciary capacity for any person.

22 (8) Financial organization.

23 (A) The term "financial organization" means any
24 bank, bank holding company, trust company, savings
25 bank, industrial bank, land bank, safe deposit
26 company, private banker, savings and loan association,

1 building and loan association, credit union, currency
2 exchange, cooperative bank, small loan company, sales
3 finance company, investment company, or any person
4 which is owned by a bank or bank holding company. For
5 the purpose of this Section a "person" will include
6 only those persons which a bank holding company may
7 acquire and hold an interest in, directly or
8 indirectly, under the provisions of the Bank Holding
9 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
10 where interests in any person must be disposed of
11 within certain required time limits under the Bank
12 Holding Company Act of 1956.

13 (B) For purposes of subparagraph (A) of this
14 paragraph, the term "bank" includes (i) any entity that
15 is regulated by the Comptroller of the Currency under
16 the National Bank Act, or by the Federal Reserve Board,
17 or by the Federal Deposit Insurance Corporation and
18 (ii) any federally or State chartered bank operating as
19 a credit card bank.

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

23 (i) A person primarily engaged in one or more
24 of the following businesses: the business of
25 purchasing customer receivables, the business of
26 making loans upon the security of customer

1 receivables, the business of making loans for the
2 express purpose of funding purchases of tangible
3 personal property or services by the borrower, or
4 the business of finance leasing. For purposes of
5 this item (i), "customer receivable" means:

6 (a) a retail installment contract or
7 retail charge agreement within the meaning of
8 the Sales Finance Agency Act, the Retail
9 Installment Sales Act, or the Motor Vehicle
10 Retail Installment Sales Act;

11 (b) an installment, charge, credit, or
12 similar contract or agreement arising from the
13 sale of tangible personal property or services
14 in a transaction involving a deferred payment
15 price payable in one or more installments
16 subsequent to the sale; or

17 (c) the outstanding balance of a contract
18 or agreement described in provisions (a) or (b)
19 of this item (i).

20 A customer receivable need not provide for
21 payment of interest on deferred payments. A sales
22 finance company may purchase a customer receivable
23 from, or make a loan secured by a customer
24 receivable to, the seller in the original
25 transaction or to a person who purchased the
26 customer receivable directly or indirectly from

1 that seller.

2 (ii) A corporation meeting each of the
3 following criteria:

4 (a) the corporation must be a member of an
5 "affiliated group" within the meaning of
6 Section 1504(a) of the Internal Revenue Code,
7 determined without regard to Section 1504(b)
8 of the Internal Revenue Code;

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

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

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

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

1 This amendatory Act of the 91st General Assembly is
2 declaratory of existing law.

3 (D) Subparagraphs (B) and (C) of this paragraph are
4 declaratory of existing law and apply retroactively,
5 for all tax years beginning on or before December 31,
6 1996, to all original returns, to all amended returns
7 filed no later than 30 days after the effective date of
8 this amendatory Act of 1996, and to all notices issued
9 on or before the effective date of this amendatory Act
10 of 1996 under subsection (a) of Section 903, subsection
11 (a) of Section 904, subsection (e) of Section 909, or
12 Section 912. A taxpayer that is a "financial
13 organization" that engages in any transaction with an
14 affiliate shall be a "financial organization" for all
15 purposes of this Act.

16 (E) For all tax years beginning on or before
17 December 31, 1996, a taxpayer that falls within the
18 definition of a "financial organization" under
19 subparagraphs (B) or (C) of this paragraph, but who
20 does not fall within the definition of a "financial
21 organization" under the Proposed Regulations issued by
22 the Department of Revenue on July 19, 1996, may
23 irrevocably elect to apply the Proposed Regulations
24 for all of those years as though the Proposed
25 Regulations had been lawfully promulgated, adopted,
26 and in effect for all of those years. For purposes of

1 applying subparagraphs (B) or (C) of this paragraph to
2 all of those years, the election allowed by this
3 subparagraph applies only to the taxpayer making the
4 election and to those members of the taxpayer's unitary
5 business group who are ordinarily required to
6 apportion business income under the same subsection of
7 Section 304 of this Act as the taxpayer making the
8 election. No election allowed by this subparagraph
9 shall be made under a claim filed under subsection (d)
10 of Section 909 more than 30 days after the effective
11 date of this amendatory Act of 1996.

12 (F) Finance Leases. For purposes of this
13 subsection, a finance lease shall be treated as a loan
14 or other extension of credit, rather than as a lease,
15 regardless of how the transaction is characterized for
16 any other purpose, including the purposes of any
17 regulatory agency to which the lessor is subject. A
18 finance lease is any transaction in the form of a lease
19 in which the lessee is treated as the owner of the
20 leased asset entitled to any deduction for
21 depreciation allowed under Section 167 of the Internal
22 Revenue Code.

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

26 (9.5) Fixed place of business. The term "fixed place of

1 business" has the same meaning as that term is given in
2 Section 864 of the Internal Revenue Code and the related
3 Treasury regulations.

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

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

12 (11.5) Investment partnership.

13 (A) The term "investment partnership" means any
14 entity that is treated as a partnership for federal
15 income tax purposes that meets the following
16 requirements:

17 (i) no less than 90% of the partnership's cost
18 of its total assets consists of qualifying
19 investment securities, deposits at banks or other
20 financial institutions, and office space and
21 equipment reasonably necessary to carry on its
22 activities as an investment partnership;

23 (ii) no less than 90% of its gross income
24 consists of interest, dividends, and gains from
25 the sale or exchange of qualifying investment
26 securities; and

1 (iii) the partnership is not a dealer in
2 qualifying investment securities.

3 (B) For purposes of this paragraph (11.5), the term
4 "qualifying investment securities" includes all of the
5 following:

6 (i) common stock, including preferred or debt
7 securities convertible into common stock, and
8 preferred stock;

9 (ii) bonds, debentures, and other debt
10 securities;

11 (iii) foreign and domestic currency deposits
12 secured by federal, state, or local governmental
13 agencies;

14 (iv) mortgage or asset-backed securities
15 secured by federal, state, or local governmental
16 agencies;

17 (v) repurchase agreements and loan
18 participations;

19 (vi) foreign currency exchange contracts and
20 forward and futures contracts on foreign
21 currencies;

22 (vii) stock and bond index securities and
23 futures contracts and other similar financial
24 securities and futures contracts on those
25 securities;

26 (viii) options for the purchase or sale of any

1 of the securities, currencies, contracts, or
2 financial instruments described in items (i) to
3 (vii), inclusive;

4 (ix) regulated futures contracts;

5 (x) commodities (not described in Section
6 1221(a)(1) of the Internal Revenue Code) or
7 futures, forwards, and options with respect to
8 such commodities, provided, however, that any item
9 of a physical commodity to which title is actually
10 acquired in the partnership's capacity as a dealer
11 in such commodity shall not be a qualifying
12 investment security;

13 (xi) derivatives; and

14 (xii) a partnership interest in another
15 partnership that is an investment partnership.

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

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

22 (B) entries on the wrong lines;

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

26 (D) an attempt to claim, exclude, deduct, or

1 improperly report, in a manner directly contrary to the
2 provisions of the Act and regulations thereunder any
3 item of income, exemption, deduction, or credit.

4 (13) Nonbusiness income. The term "nonbusiness income"
5 means all income other than business income or
6 compensation.

7 (14) Nonresident. The term "nonresident" means a
8 person who is not a resident.

9 (15) Paid, incurred and accrued. The terms "paid",
10 "incurring" and "accrued" shall be construed according to
11 the method of accounting upon the basis of which the
12 person's base income is computed under this Act.

13 (16) Partnership and partner. The term "partnership"
14 includes a syndicate, group, pool, joint venture or other
15 unincorporated organization, through or by means of which
16 any business, financial operation, or venture is carried
17 on, and which is not, within the meaning of this Act, a
18 trust or estate or a corporation; and the term "partner"
19 includes a member in such syndicate, group, pool, joint
20 venture or organization.

21 The term "partnership" includes any entity, including
22 a limited liability company formed under the Illinois
23 Limited Liability Company Act, classified as a partnership
24 for federal income tax purposes.

25 The term "partnership" does not include a syndicate,
26 group, pool, joint venture, or other unincorporated

1 organization established for the sole purpose of playing
2 the Illinois State Lottery.

3 (17) Part-year resident. The term "part-year resident"
4 means an individual who became a resident during the
5 taxable year or ceased to be a resident during the taxable
6 year. Under Section 1501(a)(20)(A)(i) residence commences
7 with presence in this State for other than a temporary or
8 transitory purpose and ceases with absence from this State
9 for other than a temporary or transitory purpose. Under
10 Section 1501(a)(20)(A)(ii) residence commences with the
11 establishment of domicile in this State and ceases with the
12 establishment of domicile in another State.

13 (18) Person. The term "person" shall be construed to
14 mean and include an individual, a trust, estate,
15 partnership, association, firm, company, corporation,
16 limited liability company, or fiduciary. For purposes of
17 Section 1301 and 1302 of this Act, a "person" means (i) an
18 individual, (ii) a corporation, (iii) an officer, agent, or
19 employee of a corporation, (iv) a member, agent or employee
20 of a partnership, or (v) a member, manager, employee,
21 officer, director, or agent of a limited liability company
22 who in such capacity commits an offense specified in
23 Section 1301 and 1302.

24 (18A) Records. The term "records" includes all data
25 maintained by the taxpayer, whether on paper, microfilm,
26 microfiche, or any type of machine-sensible data

1 compilation.

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

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

5 (A) an individual (i) who is in this State for
6 other than a temporary or transitory purpose during the
7 taxable year; or (ii) who is domiciled in this State
8 but is absent from the State for a temporary or
9 transitory purpose during the taxable year;

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

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

14 (D) An irrevocable trust, the grantor of which was
15 domiciled in this State at the time such trust became
16 irrevocable. For purpose of this subparagraph, a trust
17 shall be considered irrevocable to the extent that the
18 grantor is not treated as the owner thereof under
19 Sections 671 through 678 of the Internal Revenue Code.

20 (21) Sales. The term "sales" means all gross receipts
21 of the taxpayer not allocated under Sections 301, 302 and
22 303.

23 (22) State. The term "state" when applied to a
24 jurisdiction other than this State means any state of the
25 United States, the District of Columbia, the Commonwealth
26 of Puerto Rico, any Territory or Possession of the United

1 States, and any foreign country, or any political
2 subdivision of any of the foregoing. For purposes of the
3 foreign tax credit under Section 601, the term "state"
4 means any state of the United States, the District of
5 Columbia, the Commonwealth of Puerto Rico, and any
6 territory or possession of the United States, or any
7 political subdivision of any of the foregoing, effective
8 for tax years ending on or after December 31, 1989.

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

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

18 (25) International banking facility. The term
19 international banking facility shall have the same meaning
20 as is set forth in the Illinois Banking Act or as is set
21 forth in the laws of the United States or regulations of
22 the Board of Governors of the Federal Reserve System.

23 (26) Income Tax Return Preparer.

24 (A) The term "income tax return preparer" means any
25 person who prepares for compensation, or who employs
26 one or more persons to prepare for compensation, any

1 return of tax imposed by this Act or any claim for
2 refund of tax imposed by this Act. The preparation of a
3 substantial portion of a return or claim for refund
4 shall be treated as the preparation of that return or
5 claim for refund.

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

8 (i) furnish typing, reproducing, or other
9 mechanical assistance;

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

13 (iii) prepare as a fiduciary returns or claims
14 for refunds for any person; or

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

24 (27) Unitary business group.

25 (A) The term "unitary business group" means a group
26 of persons related through common ownership whose

1 business activities are integrated with, dependent
2 upon and contribute to each other. The group will not
3 include those members whose business activity outside
4 the United States is 80% or more of any such member's
5 total business activity; for purposes of this
6 paragraph and clause (a)(3)(B)(ii) of Section 304,
7 business activity within the United States shall be
8 measured by means of the factors ordinarily applicable
9 under subsections (a), (b), (c), (d), or (h) of Section
10 304 except that, in the case of members ordinarily
11 required to apportion business income by means of the 3
12 factor formula of property, payroll and sales
13 specified in subsection (a) of Section 304, including
14 the formula as weighted in subsection (h) of Section
15 304, such members shall not use the sales factor in the
16 computation and the results of the property and payroll
17 factor computations of subsection (a) of Section 304
18 shall be divided by 2 (by one if either the property or
19 payroll factor has a denominator of zero). The
20 computation required by the preceding sentence shall,
21 in each case, involve the division of the member's
22 property, payroll, or revenue miles in the United
23 States, insurance premiums on property or risk in the
24 United States, or financial organization business
25 income from sources within the United States, as the
26 case may be, by the respective worldwide figures for

1 such items. Common ownership in the case of
2 corporations is the direct or indirect control or
3 ownership of more than 50% of the outstanding voting
4 stock of the persons carrying on unitary business
5 activity. Unitary business activity can ordinarily be
6 illustrated where the activities of the members are:
7 (1) in the same general line (such as manufacturing,
8 wholesaling, retailing of tangible personal property,
9 insurance, transportation or finance); or (2) are
10 steps in a vertically structured enterprise or process
11 (such as the steps involved in the production of
12 natural resources, which might include exploration,
13 mining, refining, and marketing); and, in either
14 instance, the members are functionally integrated
15 through the exercise of strong centralized management
16 (where, for example, authority over such matters as
17 purchasing, financing, tax compliance, product line,
18 personnel, marketing and capital investment is not
19 left to each member).

20 (B) In no event, shall any unitary business group
21 include members which are ordinarily required to
22 apportion business income under different subsections
23 of Section 304 except that for tax years ending on or
24 after December 31, 1987 this prohibition shall not
25 apply to a holding company that would otherwise be a
26 member of a unitary business group with taxpayers that

1 apportion business income under any of subsections
2 (b), (c), (c-1), or (d) of Section 304. If a unitary
3 business group would, but for the preceding sentence,
4 include members that are ordinarily required to
5 apportion business income under different subsections
6 of Section 304, then for each subsection of Section 304
7 for which there are two or more members, there shall be
8 a separate unitary business group composed of such
9 members. For purposes of the preceding two sentences, a
10 member is "ordinarily required to apportion business
11 income" under a particular subsection of Section 304 if
12 it would be required to use the apportionment method
13 prescribed by such subsection except for the fact that
14 it derives business income solely from Illinois. As
15 used in this paragraph, for taxable years ending before
16 December 31, 2016, the phrase "United States" means
17 only the 50 states and the District of Columbia, but
18 does not include any territory or possession of the
19 United States or any area over which the United States
20 has asserted jurisdiction or claimed exclusive rights
21 with respect to the exploration for or exploitation of
22 natural resources. For taxable years ending on or after
23 December 31, 2016, the phrase "United States", as used
24 in this paragraph, means only the 50 states, the
25 District of Columbia, and any area over which the
26 United States has asserted jurisdiction or claimed

1 exclusive rights with respect to the exploration for or
2 exploitation of natural resources, but does not
3 include any territory or possession of the United
4 States.

5 (C) Holding companies.

6 (i) For purposes of this subparagraph, a
7 "holding company" is a corporation (other than a
8 corporation that is a financial organization under
9 paragraph (8) of this subsection (a) of Section
10 1501 because it is a bank holding company under the
11 provisions of the Bank Holding Company Act of 1956
12 (12 U.S.C. 1841, et seq.) or because it is owned by
13 a bank or a bank holding company) that owns a
14 controlling interest in one or more other
15 taxpayers ("controlled taxpayers"); that, during
16 the period that includes the taxable year and the 2
17 immediately preceding taxable years or, if the
18 corporation was formed during the current or
19 immediately preceding taxable year, the taxable
20 years in which the corporation has been in
21 existence, derived substantially all its gross
22 income from dividends, interest, rents, royalties,
23 fees or other charges received from controlled
24 taxpayers for the provision of services, and gains
25 on the sale or other disposition of interests in
26 controlled taxpayers or in property leased or

1 licensed to controlled taxpayers or used by the
2 taxpayer in providing services to controlled
3 taxpayers; and that incurs no substantial expenses
4 other than expenses (including interest and other
5 costs of borrowing) incurred in connection with
6 the acquisition and holding of interests in
7 controlled taxpayers and in the provision of
8 services to controlled taxpayers or in the leasing
9 or licensing of property to controlled taxpayers.

10 (ii) The income of a holding company which is a
11 member of more than one unitary business group
12 shall be included in each unitary business group of
13 which it is a member on a pro rata basis, by
14 including in each unitary business group that
15 portion of the base income of the holding company
16 that bears the same proportion to the total base
17 income of the holding company as the gross receipts
18 of the unitary business group bears to the combined
19 gross receipts of all unitary business groups (in
20 both cases without regard to the holding company)
21 or on any other reasonable basis, consistently
22 applied.

23 (iii) A holding company shall apportion its
24 business income under the subsection of Section
25 304 used by the other members of its unitary
26 business group. The apportionment factors of a

1 holding company which would be a member of more
2 than one unitary business group shall be included
3 with the apportionment factors of each unitary
4 business group of which it is a member on a pro
5 rata basis using the same method used in clause
6 (ii).

7 (iv) The provisions of this subparagraph (C)
8 are intended to clarify existing law.

9 (D) If including the base income and factors of a
10 holding company in more than one unitary business group
11 under subparagraph (C) does not fairly reflect the
12 degree of integration between the holding company and
13 one or more of the unitary business groups, the
14 dependence of the holding company and one or more of
15 the unitary business groups upon each other, or the
16 contributions between the holding company and one or
17 more of the unitary business groups, the holding
18 company may petition the Director, under the
19 procedures provided under Section 304(f), for
20 permission to include all base income and factors of
21 the holding company only with members of a unitary
22 business group apportioning their business income
23 under one subsection of subsections (a), (b), (c), or
24 (d) of Section 304. If the petition is granted, the
25 holding company shall be included in a unitary business
26 group only with persons apportioning their business

1 income under the selected subsection of Section 304
2 until the Director grants a petition of the holding
3 company either to be included in more than one unitary
4 business group under subparagraph (C) or to include its
5 base income and factors only with members of a unitary
6 business group apportioning their business income
7 under a different subsection of Section 304.

8 (E) If the unitary business group members'
9 accounting periods differ, the common parent's
10 accounting period or, if there is no common parent, the
11 accounting period of the member that is expected to
12 have, on a recurring basis, the greatest Illinois
13 income tax liability must be used to determine whether
14 to use the apportionment method provided in subsection
15 (a) or subsection (h) of Section 304. The prohibition
16 against membership in a unitary business group for
17 taxpayers ordinarily required to apportion income
18 under different subsections of Section 304 does not
19 apply to taxpayers required to apportion income under
20 subsection (a) and subsection (h) of Section 304. The
21 provisions of this amendatory Act of 1998 apply to tax
22 years ending on or after December 31, 1998.

23 (28) Subchapter S corporation. The term "Subchapter S
24 corporation" means a corporation for which there is in
25 effect an election under Section 1362 of the Internal
26 Revenue Code, or for which there is a federal election to

1 opt out of the provisions of the Subchapter S Revision Act
2 of 1982 and have applied instead the prior federal
3 Subchapter S rules as in effect on July 1, 1982.

4 (30) Foreign person. The term "foreign person" means
5 any person who is a nonresident alien individual and any
6 nonindividual entity, regardless of where created or
7 organized, whose business activity outside the United
8 States is 80% or more of the entity's total business
9 activity.

10 (b) Other definitions.

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

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

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

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

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

1 (3) Other terms. Any term used in any Section of this
2 Act with respect to the application of, or in connection
3 with, the provisions of any other Section of this Act shall
4 have the same meaning as in such other Section.

5 (Source: P.A. 99-213, eff. 7-31-15.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".