



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1115

Introduced 2/5/2019, by Sen. Heather A. Steans

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203	from Ch. 120, par. 2-203
35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/1501	from Ch. 120, par. 15-1501

Amends the Illinois Income Tax Act. Provides for a water's edge apportionment election for certain members of a unitary business group. Provides that, with respect to foreign corporations that make a water's edge election, the deduction for dividends is limited to 75%.

LRB101 07045 HLH 52081 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Sections 203, 304, and 1501 as follows:

6 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

7 Sec. 203. Base income defined.

8 (a) Individuals.

9 (1) In general. In the case of an individual, base  
10 income means an amount equal to the taxpayer's adjusted  
11 gross income for the taxable year as modified by paragraph  
12 (2).

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

16 (A) An amount equal to all amounts paid or accrued  
17 to the taxpayer as interest or dividends during the  
18 taxable year to the extent excluded from gross income  
19 in the computation of adjusted gross income, except  
20 stock dividends of qualified public utilities  
21 described in Section 305(e) of the Internal Revenue  
22 Code;

23 (B) An amount equal to the amount of tax imposed by

1           this Act to the extent deducted from gross income in  
2           the computation of adjusted gross income for the  
3           taxable year;

4           (C) An amount equal to the amount received during  
5           the taxable year as a recovery or refund of real  
6           property taxes paid with respect to the taxpayer's  
7           principal residence under the Revenue Act of 1939 and  
8           for which a deduction was previously taken under  
9           subparagraph (L) of this paragraph (2) prior to July 1,  
10          1991, the retrospective application date of Article 4  
11          of Public Act 87-17. In the case of multi-unit or  
12          multi-use structures and farm dwellings, the taxes on  
13          the taxpayer's principal residence shall be that  
14          portion of the total taxes for the entire property  
15          which is attributable to such principal residence;

16          (D) An amount equal to the amount of the capital  
17          gain deduction allowable under the Internal Revenue  
18          Code, to the extent deducted from gross income in the  
19          computation of adjusted gross income;

20          (D-5) An amount, to the extent not included in  
21          adjusted gross income, equal to the amount of money  
22          withdrawn by the taxpayer in the taxable year from a  
23          medical care savings account and the interest earned on  
24          the account in the taxable year of a withdrawal  
25          pursuant to subsection (b) of Section 20 of the Medical  
26          Care Savings Account Act or subsection (b) of Section

1 20 of the Medical Care Savings Account Act of 2000;

2 (D-10) For taxable years ending after December 31,  
3 1997, an amount equal to any eligible remediation costs  
4 that the individual deducted in computing adjusted  
5 gross income and for which the individual claims a  
6 credit under subsection (l) of Section 201;

7 (D-15) For taxable years 2001 and thereafter, an  
8 amount equal to the bonus depreciation deduction taken  
9 on the taxpayer's federal income tax return for the  
10 taxable year under subsection (k) of Section 168 of the  
11 Internal Revenue Code;

12 (D-16) If the taxpayer sells, transfers, abandons,  
13 or otherwise disposes of property for which the  
14 taxpayer was required in any taxable year to make an  
15 addition modification under subparagraph (D-15), then  
16 an amount equal to the aggregate amount of the  
17 deductions taken in all taxable years under  
18 subparagraph (Z) with respect to that property.

19 If the taxpayer continues to own property through  
20 the last day of the last tax year for which the  
21 taxpayer may claim a depreciation deduction for  
22 federal income tax purposes and for which the taxpayer  
23 was allowed in any taxable year to make a subtraction  
24 modification under subparagraph (Z), then an amount  
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

1 modification under this subparagraph only once with  
2 respect to any one piece of property;

3 (D-17) An amount equal to the amount otherwise  
4 allowed as a deduction in computing base income for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, (i) for taxable years ending on or after  
7 December 31, 2004, to a foreign person who would be a  
8 member of the same unitary business group but for the  
9 fact that foreign person's business activity outside  
10 the United States is 80% or more of the foreign  
11 person's total business activity and (ii) for taxable  
12 years ending on or after December 31, 2008, to a person  
13 who would be a member of the same unitary business  
14 group but for the fact that the person is prohibited  
15 under Section 1501(a)(27) from being included in the  
16 unitary business group because he or she is ordinarily  
17 required to apportion business income under different  
18 subsections of Section 304. The addition modification  
19 required by this subparagraph shall be reduced to the  
20 extent that dividends were included in base income of  
21 the unitary group for the same taxable year and  
22 received by the taxpayer or by a member of the  
23 taxpayer's unitary business group (including amounts  
24 included in gross income under Sections 951 through 964  
25 of the Internal Revenue Code and amounts included in  
26 gross income under Section 78 of the Internal Revenue

1 Code) with respect to the stock of the same person to  
2 whom the interest was paid, accrued, or incurred.

3 This paragraph shall not apply to the following:

4 (i) an item of interest paid, accrued, or  
5 incurred, directly or indirectly, to a person who  
6 is subject in a foreign country or state, other  
7 than a state which requires mandatory unitary  
8 reporting, to a tax on or measured by net income  
9 with respect to such interest; or

10 (ii) an item of interest paid, accrued, or  
11 incurred, directly or indirectly, to a person if  
12 the taxpayer can establish, based on a  
13 preponderance of the evidence, both of the  
14 following:

15 (a) the person, during the same taxable  
16 year, paid, accrued, or incurred, the interest  
17 to a person that is not a related member, and

18 (b) the transaction giving rise to the  
19 interest expense between the taxpayer and the  
20 person did not have as a principal purpose the  
21 avoidance of Illinois income tax, and is paid  
22 pursuant to a contract or agreement that  
23 reflects an arm's-length interest rate and  
24 terms; or

25 (iii) the taxpayer can establish, based on  
26 clear and convincing evidence, that the interest

1           paid, accrued, or incurred relates to a contract or  
2           agreement entered into at arm's-length rates and  
3           terms and the principal purpose for the payment is  
4           not federal or Illinois tax avoidance; or

5           (iv) an item of interest paid, accrued, or  
6           incurred, directly or indirectly, to a person if  
7           the taxpayer establishes by clear and convincing  
8           evidence that the adjustments are unreasonable; or  
9           if the taxpayer and the Director agree in writing  
10          to the application or use of an alternative method  
11          of apportionment under Section 304(f).

12          Nothing in this subsection shall preclude the  
13          Director from making any other adjustment  
14          otherwise allowed under Section 404 of this Act for  
15          any tax year beginning after the effective date of  
16          this amendment provided such adjustment is made  
17          pursuant to regulation adopted by the Department  
18          and such regulations provide methods and standards  
19          by which the Department will utilize its authority  
20          under Section 404 of this Act;

21          (D-18) An amount equal to the amount of intangible  
22          expenses and costs otherwise allowed as a deduction in  
23          computing base income, and that were paid, accrued, or  
24          incurred, directly or indirectly, (i) for taxable  
25          years ending on or after December 31, 2004, to a  
26          foreign person who would be a member of the same

1 unitary business group but for the fact that the  
2 foreign person's business activity outside the United  
3 States is 80% or more of that person's total business  
4 activity and (ii) for taxable years ending on or after  
5 December 31, 2008, to a person who would be a member of  
6 the same unitary business group but for the fact that  
7 the person is prohibited under Section 1501(a)(27)  
8 from being included in the unitary business group  
9 because he or she is ordinarily required to apportion  
10 business income under different subsections of Section  
11 304. The addition modification required by this  
12 subparagraph shall be reduced to the extent that  
13 dividends were included in base income of the unitary  
14 group for the same taxable year and received by the  
15 taxpayer or by a member of the taxpayer's unitary  
16 business group (including amounts included in gross  
17 income under Sections 951 through 964 of the Internal  
18 Revenue Code and amounts included in gross income under  
19 Section 78 of the Internal Revenue Code) with respect  
20 to the stock of the same person to whom the intangible  
21 expenses and costs were directly or indirectly paid,  
22 incurred, or accrued. The preceding sentence does not  
23 apply to the extent that the same dividends caused a  
24 reduction to the addition modification required under  
25 Section 203(a)(2)(D-17) of this Act. As used in this  
26 subparagraph, the term "intangible expenses and costs"



1 includes (1) expenses, losses, and costs for, or  
2 related to, the direct or indirect acquisition, use,  
3 maintenance or management, ownership, sale, exchange,  
4 or any other disposition of intangible property; (2)  
5 losses incurred, directly or indirectly, from  
6 factoring transactions or discounting transactions;  
7 (3) royalty, patent, technical, and copyright fees;  
8 (4) licensing fees; and (5) other similar expenses and  
9 costs. For purposes of this subparagraph, "intangible  
10 property" includes patents, patent applications, trade  
11 names, trademarks, service marks, copyrights, mask  
12 works, trade secrets, and similar types of intangible  
13 assets.

14 This paragraph shall not apply to the following:

15 (i) any item of intangible expenses or costs  
16 paid, accrued, or incurred, directly or  
17 indirectly, from a transaction with a person who is  
18 subject in a foreign country or state, other than a  
19 state which requires mandatory unitary reporting,  
20 to a tax on or measured by net income with respect  
21 to such item; or

22 (ii) any item of intangible expense or cost  
23 paid, accrued, or incurred, directly or  
24 indirectly, if the taxpayer can establish, based  
25 on a preponderance of the evidence, both of the  
26 following:

1 (a) the person during the same taxable  
2 year paid, accrued, or incurred, the  
3 intangible expense or cost to a person that is  
4 not a related member, and

5 (b) the transaction giving rise to the  
6 intangible expense or cost between the  
7 taxpayer and the person did not have as a  
8 principal purpose the avoidance of Illinois  
9 income tax, and is paid pursuant to a contract  
10 or agreement that reflects arm's-length terms;  
11 or

12 (iii) any item of intangible expense or cost  
13 paid, accrued, or incurred, directly or  
14 indirectly, from a transaction with a person if the  
15 taxpayer establishes by clear and convincing  
16 evidence, that the adjustments are unreasonable;  
17 or if the taxpayer and the Director agree in  
18 writing to the application or use of an alternative  
19 method of apportionment under Section 304(f);

20 Nothing in this subsection shall preclude the  
21 Director from making any other adjustment  
22 otherwise allowed under Section 404 of this Act for  
23 any tax year beginning after the effective date of  
24 this amendment provided such adjustment is made  
25 pursuant to regulation adopted by the Department  
26 and such regulations provide methods and standards

1           by which the Department will utilize its authority  
2           under Section 404 of this Act;

3           (D-19) For taxable years ending on or after  
4           December 31, 2008, an amount equal to the amount of  
5           insurance premium expenses and costs otherwise allowed  
6           as a deduction in computing base income, and that were  
7           paid, accrued, or incurred, directly or indirectly, to  
8           a person who would be a member of the same unitary  
9           business group but for the fact that the person is  
10          prohibited under Section 1501(a)(27) from being  
11          included in the unitary business group because he or  
12          she is ordinarily required to apportion business  
13          income under different subsections of Section 304. The  
14          addition modification required by this subparagraph  
15          shall be reduced to the extent that dividends were  
16          included in base income of the unitary group for the  
17          same taxable year and received by the taxpayer or by a  
18          member of the taxpayer's unitary business group  
19          (including amounts included in gross income under  
20          Sections 951 through 964 of the Internal Revenue Code  
21          and amounts included in gross income under Section 78  
22          of the Internal Revenue Code) with respect to the stock  
23          of the same person to whom the premiums and costs were  
24          directly or indirectly paid, incurred, or accrued. The  
25          preceding sentence does not apply to the extent that  
26          the same dividends caused a reduction to the addition

1 modification required under Section 203(a)(2)(D-17) or  
2 Section 203(a)(2)(D-18) of this Act.

3 (D-20) For taxable years beginning on or after  
4 January 1, 2002 and ending on or before December 31,  
5 2006, in the case of a distribution from a qualified  
6 tuition program under Section 529 of the Internal  
7 Revenue Code, other than (i) a distribution from a  
8 College Savings Pool created under Section 16.5 of the  
9 State Treasurer Act or (ii) a distribution from the  
10 Illinois Prepaid Tuition Trust Fund, an amount equal to  
11 the amount excluded from gross income under Section  
12 529(c)(3)(B). For taxable years beginning on or after  
13 January 1, 2007, in the case of a distribution from a  
14 qualified tuition program under Section 529 of the  
15 Internal Revenue Code, other than (i) a distribution  
16 from a College Savings Pool created under Section 16.5  
17 of the State Treasurer Act, (ii) a distribution from  
18 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
19 distribution from a qualified tuition program under  
20 Section 529 of the Internal Revenue Code that (I)  
21 adopts and determines that its offering materials  
22 comply with the College Savings Plans Network's  
23 disclosure principles and (II) has made reasonable  
24 efforts to inform in-state residents of the existence  
25 of in-state qualified tuition programs by informing  
26 Illinois residents directly and, where applicable, to

1 inform financial intermediaries distributing the  
2 program to inform in-state residents of the existence  
3 of in-state qualified tuition programs at least  
4 annually, an amount equal to the amount excluded from  
5 gross income under Section 529(c)(3)(B).

6 For the purposes of this subparagraph (D-20), a  
7 qualified tuition program has made reasonable efforts  
8 if it makes disclosures (which may use the term  
9 "in-state program" or "in-state plan" and need not  
10 specifically refer to Illinois or its qualified  
11 programs by name) (i) directly to prospective  
12 participants in its offering materials or makes a  
13 public disclosure, such as a website posting; and (ii)  
14 where applicable, to intermediaries selling the  
15 out-of-state program in the same manner that the  
16 out-of-state program distributes its offering  
17 materials;

18 (D-20.5) For taxable years beginning on or after  
19 January 1, 2018, in the case of a distribution from a  
20 qualified ABLE program under Section 529A of the  
21 Internal Revenue Code, other than a distribution from a  
22 qualified ABLE program created under Section 16.6 of  
23 the State Treasurer Act, an amount equal to the amount  
24 excluded from gross income under Section 529A(c)(1)(B)  
25 of the Internal Revenue Code;

26 (D-21) For taxable years beginning on or after

1 January 1, 2007, in the case of transfer of moneys from  
2 a qualified tuition program under Section 529 of the  
3 Internal Revenue Code that is administered by the State  
4 to an out-of-state program, an amount equal to the  
5 amount of moneys previously deducted from base income  
6 under subsection (a) (2) (Y) of this Section;

7 (D-21.5) For taxable years beginning on or after  
8 January 1, 2018, in the case of the transfer of moneys  
9 from a qualified tuition program under Section 529 or a  
10 qualified ABLE program under Section 529A of the  
11 Internal Revenue Code that is administered by this  
12 State to an ABLE account established under an  
13 out-of-state ABLE account program, an amount equal to  
14 the contribution component of the transferred amount  
15 that was previously deducted from base income under  
16 subsection (a) (2) (Y) or subsection (a) (2) (HH) of this  
17 Section;

18 (D-22) For taxable years beginning on or after  
19 January 1, 2009, and prior to January 1, 2018, in the  
20 case of a nonqualified withdrawal or refund of moneys  
21 from a qualified tuition program under Section 529 of  
22 the Internal Revenue Code administered by the State  
23 that is not used for qualified expenses at an eligible  
24 education institution, an amount equal to the  
25 contribution component of the nonqualified withdrawal  
26 or refund that was previously deducted from base income

1 under subsection (a)(2)(y) of this Section, provided  
2 that the withdrawal or refund did not result from the  
3 beneficiary's death or disability. For taxable years  
4 beginning on or after January 1, 2018: (1) in the case  
5 of a nonqualified withdrawal or refund, as defined  
6 under Section 16.5 of the State Treasurer Act, of  
7 moneys from a qualified tuition program under Section  
8 529 of the Internal Revenue Code administered by the  
9 State, an amount equal to the contribution component of  
10 the nonqualified withdrawal or refund that was  
11 previously deducted from base income under subsection  
12 (a)(2)(Y) of this Section, and (2) in the case of a  
13 nonqualified withdrawal or refund from a qualified  
14 ABLE program under Section 529A of the Internal Revenue  
15 Code administered by the State that is not used for  
16 qualified disability expenses, an amount equal to the  
17 contribution component of the nonqualified withdrawal  
18 or refund that was previously deducted from base income  
19 under subsection (a)(2)(HH) of this Section;

20 (D-23) An amount equal to the credit allowable to  
21 the taxpayer under Section 218(a) of this Act,  
22 determined without regard to Section 218(c) of this  
23 Act;

24 (D-24) For taxable years ending on or after  
25 December 31, 2017, an amount equal to the deduction  
26 allowed under Section 199 of the Internal Revenue Code

1           for the taxable year;

2           and by deducting from the total so obtained the sum of the  
3           following amounts:

4                   (E) For taxable years ending before December 31,  
5                   2001, any amount included in such total in respect of  
6                   any compensation (including but not limited to any  
7                   compensation paid or accrued to a serviceman while a  
8                   prisoner of war or missing in action) paid to a  
9                   resident by reason of being on active duty in the Armed  
10                   Forces of the United States and in respect of any  
11                   compensation paid or accrued to a resident who as a  
12                   governmental employee was a prisoner of war or missing  
13                   in action, and in respect of any compensation paid to a  
14                   resident in 1971 or thereafter for annual training  
15                   performed pursuant to Sections 502 and 503, Title 32,  
16                   United States Code as a member of the Illinois National  
17                   Guard or, beginning with taxable years ending on or  
18                   after December 31, 2007, the National Guard of any  
19                   other state. For taxable years ending on or after  
20                   December 31, 2001, any amount included in such total in  
21                   respect of any compensation (including but not limited  
22                   to any compensation paid or accrued to a serviceman  
23                   while a prisoner of war or missing in action) paid to a  
24                   resident by reason of being a member of any component  
25                   of the Armed Forces of the United States and in respect  
26                   of any compensation paid or accrued to a resident who



1 as a governmental employee was a prisoner of war or  
2 missing in action, and in respect of any compensation  
3 paid to a resident in 2001 or thereafter by reason of  
4 being a member of the Illinois National Guard or,  
5 beginning with taxable years ending on or after  
6 December 31, 2007, the National Guard of any other  
7 state. The provisions of this subparagraph (E) are  
8 exempt from the provisions of Section 250;

9 (F) An amount equal to all amounts included in such  
10 total pursuant to the provisions of Sections 402(a),  
11 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
12 Internal Revenue Code, or included in such total as  
13 distributions under the provisions of any retirement  
14 or disability plan for employees of any governmental  
15 agency or unit, or retirement payments to retired  
16 partners, which payments are excluded in computing net  
17 earnings from self employment by Section 1402 of the  
18 Internal Revenue Code and regulations adopted pursuant  
19 thereto;

20 (G) The valuation limitation amount;

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

24 (I) An amount equal to all amounts included in such  
25 total pursuant to the provisions of Section 111 of the  
26 Internal Revenue Code as a recovery of items previously

1           deducted from adjusted gross income in the computation  
2           of taxable income;

3           (J) An amount equal to those dividends included in  
4           such total which were paid by a corporation which  
5           conducts business operations in a River Edge  
6           Redevelopment Zone or zones created under the River  
7           Edge Redevelopment Zone Act, and conducts  
8           substantially all of its operations in a River Edge  
9           Redevelopment Zone or zones. This subparagraph (J) is  
10          exempt from the provisions of Section 250;

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

20          (L) For taxable years ending after December 31,  
21          1983, an amount equal to all social security benefits  
22          and railroad retirement benefits included in such  
23          total pursuant to Sections 72(r) and 86 of the Internal  
24          Revenue Code;

25          (M) With the exception of any amounts subtracted  
26          under subparagraph (N), an amount equal to the sum of

1 all amounts disallowed as deductions by (i) Sections  
2 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal  
3 Revenue Code, and all amounts of expenses allocable to  
4 interest and disallowed as deductions by Section  
5 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)  
6 for taxable years ending on or after August 13, 1999,  
7 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
8 the Internal Revenue Code, plus, for taxable years  
9 ending on or after December 31, 2011, Section 45G(e)(3)  
10 of the Internal Revenue Code and, for taxable years  
11 ending on or after December 31, 2008, any amount  
12 included in gross income under Section 87 of the  
13 Internal Revenue Code; the provisions of this  
14 subparagraph are exempt from the provisions of Section  
15 250;

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

25 (O) An amount equal to any contribution made to a  
26 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

2 (P) An amount equal to the amount of the deduction  
3 used to compute the federal income tax credit for  
4 restoration of substantial amounts held under claim of  
5 right for the taxable year pursuant to Section 1341 of  
6 the Internal Revenue Code or of any itemized deduction  
7 taken from adjusted gross income in the computation of  
8 taxable income for restoration of substantial amounts  
9 held under claim of right for the taxable year;

10 (Q) An amount equal to any amounts included in such  
11 total, received by the taxpayer as an acceleration in  
12 the payment of life, endowment or annuity benefits in  
13 advance of the time they would otherwise be payable as  
14 an indemnity for a terminal illness;

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

17 (S) An amount, to the extent included in adjusted  
18 gross income, equal to the amount of a contribution  
19 made in the taxable year on behalf of the taxpayer to a  
20 medical care savings account established under the  
21 Medical Care Savings Account Act or the Medical Care  
22 Savings Account Act of 2000 to the extent the  
23 contribution is accepted by the account administrator  
24 as provided in that Act;

25 (T) An amount, to the extent included in adjusted  
26 gross income, equal to the amount of interest earned in

1 the taxable year on a medical care savings account  
2 established under the Medical Care Savings Account Act  
3 or the Medical Care Savings Account Act of 2000 on  
4 behalf of the taxpayer, other than interest added  
5 pursuant to item (D-5) of this paragraph (2);

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

12 (V) Beginning with tax years ending on or after  
13 December 31, 1995 and ending with tax years ending on  
14 or before December 31, 2004, an amount equal to the  
15 amount paid by a taxpayer who is a self-employed  
16 taxpayer, a partner of a partnership, or a shareholder  
17 in a Subchapter S corporation for health insurance or  
18 long-term care insurance for that taxpayer or that  
19 taxpayer's spouse or dependents, to the extent that the  
20 amount paid for that health insurance or long-term care  
21 insurance may be deducted under Section 213 of the  
22 Internal Revenue Code, has not been deducted on the  
23 federal income tax return of the taxpayer, and does not  
24 exceed the taxable income attributable to that  
25 taxpayer's income, self-employment income, or  
26 Subchapter S corporation income; except that no

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

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

18 (X) For taxable year 1999 and thereafter, an amount  
19 equal to the amount of any (i) distributions, to the  
20 extent includible in gross income for federal income  
21 tax purposes, made to the taxpayer because of his or  
22 her status as a victim of persecution for racial or  
23 religious reasons by Nazi Germany or any other Axis  
24 regime or as an heir of the victim and (ii) items of  
25 income, to the extent includible in gross income for  
26 federal income tax purposes, attributable to, derived

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

25 (Y) For taxable years beginning on or after January  
26 1, 2002 and ending on or before December 31, 2004,

1 moneys contributed in the taxable year to a College  
2 Savings Pool account under Section 16.5 of the State  
3 Treasurer Act, except that amounts excluded from gross  
4 income under Section 529(c)(3)(C)(i) of the Internal  
5 Revenue Code shall not be considered moneys  
6 contributed under this subparagraph (Y). For taxable  
7 years beginning on or after January 1, 2005, a maximum  
8 of \$10,000 contributed in the taxable year to (i) a  
9 College Savings Pool account under Section 16.5 of the  
10 State Treasurer Act or (ii) the Illinois Prepaid  
11 Tuition Trust Fund, except that amounts excluded from  
12 gross income under Section 529(c)(3)(C)(i) of the  
13 Internal Revenue Code shall not be considered moneys  
14 contributed under this subparagraph (Y). For purposes  
15 of this subparagraph, contributions made by an  
16 employer on behalf of an employee, or matching  
17 contributions made by an employee, shall be treated as  
18 made by the employee. This subparagraph (Y) is exempt  
19 from the provisions of Section 250;

20 (Z) For taxable years 2001 and thereafter, for the  
21 taxable year in which the bonus depreciation deduction  
22 is taken on the taxpayer's federal income tax return  
23 under subsection (k) of Section 168 of the Internal  
24 Revenue Code and for each applicable taxable year  
25 thereafter, an amount equal to "x", where:

26 (1) "y" equals the amount of the depreciation



1 deduction taken for the taxable year on the  
2 taxpayer's federal income tax return on property  
3 for which the bonus depreciation deduction was  
4 taken in any year under subsection (k) of Section  
5 168 of the Internal Revenue Code, but not including  
6 the bonus depreciation deduction;

7 (2) for taxable years ending on or before  
8 December 31, 2005, "x" equals "y" multiplied by 30  
9 and then divided by 70 (or "y" multiplied by  
10 0.429); and

11 (3) for taxable years ending after December  
12 31, 2005:

13 (i) for property on which a bonus  
14 depreciation deduction of 30% of the adjusted  
15 basis was taken, "x" equals "y" multiplied by  
16 30 and then divided by 70 (or "y" multiplied by  
17 0.429); and

18 (ii) for property on which a bonus  
19 depreciation deduction of 50% of the adjusted  
20 basis was taken, "x" equals "y" multiplied by  
21 1.0.

22 The aggregate amount deducted under this  
23 subparagraph in all taxable years for any one piece of  
24 property may not exceed the amount of the bonus  
25 depreciation deduction taken on that property on the  
26 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code. This  
2 subparagraph (Z) is exempt from the provisions of  
3 Section 250;

4 (AA) If the taxpayer sells, transfers, abandons,  
5 or otherwise disposes of property for which the  
6 taxpayer was required in any taxable year to make an  
7 addition modification under subparagraph (D-15), then  
8 an amount equal to that addition modification.

9 If the taxpayer continues to own property through  
10 the last day of the last tax year for which the  
11 taxpayer may claim a depreciation deduction for  
12 federal income tax purposes and for which the taxpayer  
13 was required in any taxable year to make an addition  
14 modification under subparagraph (D-15), then an amount  
15 equal to that addition modification.

16 The taxpayer is allowed to take the deduction under  
17 this subparagraph only once with respect to any one  
18 piece of property.

19 This subparagraph (AA) is exempt from the  
20 provisions of Section 250;

21 (BB) Any amount included in adjusted gross income,  
22 other than salary, received by a driver in a  
23 ridesharing arrangement using a motor vehicle;

24 (CC) The amount of (i) any interest income (net of  
25 the deductions allocable thereto) taken into account  
26 for the taxable year with respect to a transaction with

1 a taxpayer that is required to make an addition  
2 modification with respect to such transaction under  
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
5 the amount of that addition modification, and (ii) any  
6 income from intangible property (net of the deductions  
7 allocable thereto) taken into account for the taxable  
8 year with respect to a transaction with a taxpayer that  
9 is required to make an addition modification with  
10 respect to such transaction under Section  
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
12 203(d)(2)(D-8), but not to exceed the amount of that  
13 addition modification. This subparagraph (CC) is  
14 exempt from the provisions of Section 250;

15 (DD) An amount equal to the interest income taken  
16 into account for the taxable year (net of the  
17 deductions allocable thereto) with respect to  
18 transactions with (i) a foreign person who would be a  
19 member of the taxpayer's unitary business group but for  
20 the fact that the foreign person's business activity  
21 outside the United States is 80% or more of that  
22 person's total business activity and (ii) for taxable  
23 years ending on or after December 31, 2008, to a person  
24 who would be a member of the same unitary business  
25 group but for the fact that the person is prohibited  
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily  
2 required to apportion business income under different  
3 subsections of Section 304, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(a)(2)(D-17) for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, to the same person. This subparagraph (DD)  
8 is exempt from the provisions of Section 250;

9 (EE) An amount equal to the income from intangible  
10 property taken into account for the taxable year (net  
11 of the deductions allocable thereto) with respect to  
12 transactions with (i) a foreign person who would be a  
13 member of the taxpayer's unitary business group but for  
14 the fact that the foreign person's business activity  
15 outside the United States is 80% or more of that  
16 person's total business activity and (ii) for taxable  
17 years ending on or after December 31, 2008, to a person  
18 who would be a member of the same unitary business  
19 group but for the fact that the person is prohibited  
20 under Section 1501(a)(27) from being included in the  
21 unitary business group because he or she is ordinarily  
22 required to apportion business income under different  
23 subsections of Section 304, but not to exceed the  
24 addition modification required to be made for the same  
25 taxable year under Section 203(a)(2)(D-18) for  
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign  
2 person. This subparagraph (EE) is exempt from the  
3 provisions of Section 250;

4 (FF) An amount equal to any amount awarded to the  
5 taxpayer during the taxable year by the Court of Claims  
6 under subsection (c) of Section 8 of the Court of  
7 Claims Act for time unjustly served in a State prison.  
8 This subparagraph (FF) is exempt from the provisions of  
9 Section 250;

10 (GG) For taxable years ending on or after December  
11 31, 2011, in the case of a taxpayer who was required to  
12 add back any insurance premiums under Section  
13 203(a)(2)(D-19), such taxpayer may elect to subtract  
14 that part of a reimbursement received from the  
15 insurance company equal to the amount of the expense or  
16 loss (including expenses incurred by the insurance  
17 company) that would have been taken into account as a  
18 deduction for federal income tax purposes if the  
19 expense or loss had been uninsured. If a taxpayer makes  
20 the election provided for by this subparagraph (GG),  
21 the insurer to which the premiums were paid must add  
22 back to income the amount subtracted by the taxpayer  
23 pursuant to this subparagraph (GG). This subparagraph  
24 (GG) is exempt from the provisions of Section 250; and

25 (HH) For taxable years beginning on or after  
26 January 1, 2018 and prior to January 1, 2023, a maximum

1 of \$10,000 contributed in the taxable year to a  
2 qualified ABLE account under Section 16.6 of the State  
3 Treasurer Act, except that amounts excluded from gross  
4 income under Section 529(c)(3)(C)(i) or Section  
5 529A(c)(1)(C) of the Internal Revenue Code shall not be  
6 considered moneys contributed under this subparagraph  
7 (HH). For purposes of this subparagraph (HH),  
8 contributions made by an employer on behalf of an  
9 employee, or matching contributions made by an  
10 employee, shall be treated as made by the employee.

11 (b) Corporations.

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

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

18 (A) An amount equal to all amounts paid or accrued  
19 to the taxpayer as interest and all distributions  
20 received from regulated investment companies during  
21 the taxable year to the extent excluded from gross  
22 income in the computation of taxable income;

23 (B) An amount equal to the amount of tax imposed by  
24 this Act to the extent deducted from gross income in  
25 the computation of taxable income for the taxable year;

1           (C) In the case of a regulated investment company,  
2           an amount equal to the excess of (i) the net long-term  
3           capital gain for the taxable year, over (ii) the amount  
4           of the capital gain dividends designated as such in  
5           accordance with Section 852(b)(3)(C) of the Internal  
6           Revenue Code and any amount designated under Section  
7           852(b)(3)(D) of the Internal Revenue Code,  
8           attributable to the taxable year (this amendatory Act  
9           of 1995 (Public Act 89-89) is declarative of existing  
10          law and is not a new enactment);

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

15          (E) For taxable years in which a net operating loss  
16          carryback or carryforward from a taxable year ending  
17          prior to December 31, 1986 is an element of taxable  
18          income under paragraph (1) of subsection (e) or  
19          subparagraph (E) of paragraph (2) of subsection (e),  
20          the amount by which addition modifications other than  
21          those provided by this subparagraph (E) exceeded  
22          subtraction modifications in such earlier taxable  
23          year, with the following limitations applied in the  
24          order that they are listed:

25                 (i) the addition modification relating to the  
26                 net operating loss carried back or forward to the

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

7 (ii) the addition modification relating to the  
8 net operating loss carried back or forward to the  
9 taxable year from any taxable year ending prior to  
10 December 31, 1986 shall not exceed the amount of  
11 such carryback or carryforward;

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

19 (E-5) For taxable years ending after December 31,  
20 1997, an amount equal to any eligible remediation costs  
21 that the corporation deducted in computing adjusted  
22 gross income and for which the corporation claims a  
23 credit under subsection (1) of Section 201;

24 (E-10) For taxable years 2001 and thereafter, an  
25 amount equal to the bonus depreciation deduction taken  
26 on the taxpayer's federal income tax return for the



1 taxable year under subsection (k) of Section 168 of the  
2 Internal Revenue Code;

3 (E-11) If the taxpayer sells, transfers, abandons,  
4 or otherwise disposes of property for which the  
5 taxpayer was required in any taxable year to make an  
6 addition modification under subparagraph (E-10), then  
7 an amount equal to the aggregate amount of the  
8 deductions taken in all taxable years under  
9 subparagraph (T) with respect to that property.

10 If the taxpayer continues to own property through  
11 the last day of the last tax year for which the  
12 taxpayer may claim a depreciation deduction for  
13 federal income tax purposes and for which the taxpayer  
14 was allowed in any taxable year to make a subtraction  
15 modification under subparagraph (T), then an amount  
16 equal to that subtraction modification.

17 The taxpayer is required to make the addition  
18 modification under this subparagraph only once with  
19 respect to any one piece of property;

20 (E-12) An amount equal to the amount otherwise  
21 allowed as a deduction in computing base income for  
22 interest paid, accrued, or incurred, directly or  
23 indirectly, (i) for taxable years ending on or after  
24 December 31, 2004, to a foreign person who would be a  
25 member of the same unitary business group but for the  
26 fact the foreign person's business activity outside

1 the United States is 80% or more of the foreign  
2 person's total business activity and (ii) for taxable  
3 years ending on or after December 31, 2008, to a person  
4 who would be a member of the same unitary business  
5 group but for the fact that the person is prohibited  
6 under Section 1501(a)(27) from being included in the  
7 unitary business group because he or she is ordinarily  
8 required to apportion business income under different  
9 subsections of Section 304. The addition modification  
10 required by this subparagraph shall be reduced to the  
11 extent that dividends were included in base income of  
12 the unitary group for the same taxable year and  
13 received by the taxpayer or by a member of the  
14 taxpayer's unitary business group (including amounts  
15 included in gross income pursuant to Sections 951  
16 through 964 of the Internal Revenue Code and amounts  
17 included in gross income under Section 78 of the  
18 Internal Revenue Code) with respect to the stock of the  
19 same person to whom the interest was paid, accrued, or  
20 incurred.

21 This paragraph shall not apply to the following:

22 (i) an item of interest paid, accrued, or  
23 incurred, directly or indirectly, to a person who  
24 is subject in a foreign country or state, other  
25 than a state which requires mandatory unitary  
26 reporting, to a tax on or measured by net income

1 with respect to such interest; or

2 (ii) an item of interest paid, accrued, or  
3 incurred, directly or indirectly, to a person if  
4 the taxpayer can establish, based on a  
5 preponderance of the evidence, both of the  
6 following:

7 (a) the person, during the same taxable  
8 year, paid, accrued, or incurred, the interest  
9 to a person that is not a related member, and

10 (b) the transaction giving rise to the  
11 interest expense between the taxpayer and the  
12 person did not have as a principal purpose the  
13 avoidance of Illinois income tax, and is paid  
14 pursuant to a contract or agreement that  
15 reflects an arm's-length interest rate and  
16 terms; or

17 (iii) the taxpayer can establish, based on  
18 clear and convincing evidence, that the interest  
19 paid, accrued, or incurred relates to a contract or  
20 agreement entered into at arm's-length rates and  
21 terms and the principal purpose for the payment is  
22 not federal or Illinois tax avoidance; or

23 (iv) an item of interest paid, accrued, or  
24 incurred, directly or indirectly, to a person if  
25 the taxpayer establishes by clear and convincing  
26 evidence that the adjustments are unreasonable; or

1           if the taxpayer and the Director agree in writing  
2           to the application or use of an alternative method  
3           of apportionment under Section 304(f).

4           Nothing in this subsection shall preclude the  
5           Director from making any other adjustment  
6           otherwise allowed under Section 404 of this Act for  
7           any tax year beginning after the effective date of  
8           this amendment provided such adjustment is made  
9           pursuant to regulation adopted by the Department  
10          and such regulations provide methods and standards  
11          by which the Department will utilize its authority  
12          under Section 404 of this Act;

13          (E-13) An amount equal to the amount of intangible  
14          expenses and costs otherwise allowed as a deduction in  
15          computing base income, and that were paid, accrued, or  
16          incurred, directly or indirectly, (i) for taxable  
17          years ending on or after December 31, 2004, to a  
18          foreign person who would be a member of the same  
19          unitary business group but for the fact that the  
20          foreign person's business activity outside the United  
21          States is 80% or more of that person's total business  
22          activity and (ii) for taxable years ending on or after  
23          December 31, 2008, to a person who would be a member of  
24          the same unitary business group but for the fact that  
25          the person is prohibited under Section 1501(a)(27)  
26          from being included in the unitary business group

1 because he or she is ordinarily required to apportion  
2 business income under different subsections of Section  
3 304. The addition modification required by this  
4 subparagraph shall be reduced to the extent that  
5 dividends were included in base income of the unitary  
6 group for the same taxable year and received by the  
7 taxpayer or by a member of the taxpayer's unitary  
8 business group (including amounts included in gross  
9 income pursuant to Sections 951 through 964 of the  
10 Internal Revenue Code and amounts included in gross  
11 income under Section 78 of the Internal Revenue Code)  
12 with respect to the stock of the same person to whom  
13 the intangible expenses and costs were directly or  
14 indirectly paid, incurred, or accrued. The preceding  
15 sentence shall not apply to the extent that the same  
16 dividends caused a reduction to the addition  
17 modification required under Section 203(b)(2)(E-12) of  
18 this Act. As used in this subparagraph, the term  
19 "intangible expenses and costs" includes (1) expenses,  
20 losses, and costs for, or related to, the direct or  
21 indirect acquisition, use, maintenance or management,  
22 ownership, sale, exchange, or any other disposition of  
23 intangible property; (2) losses incurred, directly or  
24 indirectly, from factoring transactions or discounting  
25 transactions; (3) royalty, patent, technical, and  
26 copyright fees; (4) licensing fees; and (5) other

1 similar expenses and costs. For purposes of this  
2 subparagraph, "intangible property" includes patents,  
3 patent applications, trade names, trademarks, service  
4 marks, copyrights, mask works, trade secrets, and  
5 similar types of intangible assets.

6 This paragraph shall not apply to the following:

7 (i) any item of intangible expenses or costs  
8 paid, accrued, or incurred, directly or  
9 indirectly, from a transaction with a person who is  
10 subject in a foreign country or state, other than a  
11 state which requires mandatory unitary reporting,  
12 to a tax on or measured by net income with respect  
13 to such item; or

14 (ii) any item of intangible expense or cost  
15 paid, accrued, or incurred, directly or  
16 indirectly, if the taxpayer can establish, based  
17 on a preponderance of the evidence, both of the  
18 following:

19 (a) the person during the same taxable  
20 year paid, accrued, or incurred, the  
21 intangible expense or cost to a person that is  
22 not a related member, and

23 (b) the transaction giving rise to the  
24 intangible expense or cost between the  
25 taxpayer and the person did not have as a  
26 principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract  
2 or agreement that reflects arm's-length terms;  
3 or

4 (iii) any item of intangible expense or cost  
5 paid, accrued, or incurred, directly or  
6 indirectly, from a transaction with a person if the  
7 taxpayer establishes by clear and convincing  
8 evidence, that the adjustments are unreasonable;  
9 or if the taxpayer and the Director agree in  
10 writing to the application or use of an alternative  
11 method of apportionment under Section 304(f);

12 Nothing in this subsection shall preclude the  
13 Director from making any other adjustment  
14 otherwise allowed under Section 404 of this Act for  
15 any tax year beginning after the effective date of  
16 this amendment provided such adjustment is made  
17 pursuant to regulation adopted by the Department  
18 and such regulations provide methods and standards  
19 by which the Department will utilize its authority  
20 under Section 404 of this Act;

21 (E-14) For taxable years ending on or after  
22 December 31, 2008, an amount equal to the amount of  
23 insurance premium expenses and costs otherwise allowed  
24 as a deduction in computing base income, and that were  
25 paid, accrued, or incurred, directly or indirectly, to  
26 a person who would be a member of the same unitary

1 business group but for the fact that the person is  
2 prohibited under Section 1501(a)(27) from being  
3 included in the unitary business group because he or  
4 she is ordinarily required to apportion business  
5 income under different subsections of Section 304. The  
6 addition modification required by this subparagraph  
7 shall be reduced to the extent that dividends were  
8 included in base income of the unitary group for the  
9 same taxable year and received by the taxpayer or by a  
10 member of the taxpayer's unitary business group  
11 (including amounts included in gross income under  
12 Sections 951 through 964 of the Internal Revenue Code  
13 and amounts included in gross income under Section 78  
14 of the Internal Revenue Code) with respect to the stock  
15 of the same person to whom the premiums and costs were  
16 directly or indirectly paid, incurred, or accrued. The  
17 preceding sentence does not apply to the extent that  
18 the same dividends caused a reduction to the addition  
19 modification required under Section 203(b)(2)(E-12) or  
20 Section 203(b)(2)(E-13) of this Act;

21 (E-15) For taxable years beginning after December  
22 31, 2008, any deduction for dividends paid by a captive  
23 real estate investment trust that is allowed to a real  
24 estate investment trust under Section 857(b)(2)(B) of  
25 the Internal Revenue Code for dividends paid;

26 (E-16) An amount equal to the credit allowable to



1 the taxpayer under Section 218(a) of this Act,  
2 determined without regard to Section 218(c) of this  
3 Act;

4 (E-17) For taxable years ending on or after  
5 December 31, 2017, an amount equal to the deduction  
6 allowed under Section 199 of the Internal Revenue Code  
7 for the taxable year;

8 and by deducting from the total so obtained the sum of the  
9 following amounts:

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

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

15 (H) In the case of a regulated investment company,  
16 an amount equal to the amount of exempt interest  
17 dividends as defined in subsection (b)(5) of Section  
18 852 of the Internal Revenue Code, paid to shareholders  
19 for the taxable year;

20 (I) With the exception of any amounts subtracted  
21 under subparagraph (J), an amount equal to the sum of  
22 all amounts disallowed as deductions by (i) Sections  
23 171(a)(2), and 265(a)(2) and amounts disallowed as  
24 interest expense by Section 291(a)(3) of the Internal  
25 Revenue Code, and all amounts of expenses allocable to  
26 interest and disallowed as deductions by Section

1           265(a)(1) of the Internal Revenue Code; and (ii) for  
2           taxable years ending on or after August 13, 1999,  
3           Sections 171(a)(2), 265, 280C, 291(a)(3), and  
4           832(b)(5)(B)(i) of the Internal Revenue Code, plus,  
5           for tax years ending on or after December 31, 2011,  
6           amounts disallowed as deductions by Section 45G(e)(3)  
7           of the Internal Revenue Code and, for taxable years  
8           ending on or after December 31, 2008, any amount  
9           included in gross income under Section 87 of the  
10          Internal Revenue Code and the policyholders' share of  
11          tax-exempt interest of a life insurance company under  
12          Section 807(a)(2)(B) of the Internal Revenue Code (in  
13          the case of a life insurance company with gross income  
14          from a decrease in reserves for the tax year) or  
15          Section 807(b)(1)(B) of the Internal Revenue Code (in  
16          the case of a life insurance company allowed a  
17          deduction for an increase in reserves for the tax  
18          year); the provisions of this subparagraph are exempt  
19          from the provisions of Section 250;

20                 (J) An amount equal to all amounts included in such  
21          total which are exempt from taxation by this State  
22          either by reason of its statutes or Constitution or by  
23          reason of the Constitution, treaties or statutes of the  
24          United States; provided that, in the case of any  
25          statute of this State that exempts income derived from  
26          bonds or other obligations from the tax imposed under

1 this Act, the amount exempted shall be the interest net  
2 of bond premium amortization;

3 (K) An amount equal to those dividends included in  
4 such total which were paid by a corporation which  
5 conducts business operations in a River Edge  
6 Redevelopment Zone or zones created under the River  
7 Edge Redevelopment Zone Act and conducts substantially  
8 all of its operations in a River Edge Redevelopment  
9 Zone or zones. This subparagraph (K) is exempt from the  
10 provisions of Section 250;

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

20 (M) For any taxpayer that is a financial  
21 organization within the meaning of Section 304(c) of  
22 this Act, an amount included in such total as interest  
23 income from a loan or loans made by such taxpayer to a  
24 borrower, to the extent that such a loan is secured by  
25 property which is eligible for the River Edge  
26 Redevelopment Zone Investment Credit. To determine the

1 portion of a loan or loans that is secured by property  
2 eligible for a Section 201(f) investment credit to the  
3 borrower, the entire principal amount of the loan or  
4 loans between the taxpayer and the borrower should be  
5 divided into the basis of the Section 201(f) investment  
6 credit property which secures the loan or loans, using  
7 for this purpose the original basis of such property on  
8 the date that it was placed in service in the River  
9 Edge Redevelopment Zone. The subtraction modification  
10 available to the taxpayer in any year under this  
11 subsection shall be that portion of the total interest  
12 paid by the borrower with respect to such loan  
13 attributable to the eligible property as calculated  
14 under the previous sentence. This subparagraph (M) is  
15 exempt from the provisions of Section 250;

16 (M-1) For any taxpayer that is a financial  
17 organization within the meaning of Section 304(c) of  
18 this Act, an amount included in such total as interest  
19 income from a loan or loans made by such taxpayer to a  
20 borrower, to the extent that such a loan is secured by  
21 property which is eligible for the High Impact Business  
22 Investment Credit. To determine the portion of a loan  
23 or loans that is secured by property eligible for a  
24 Section 201(h) investment credit to the borrower, the  
25 entire principal amount of the loan or loans between  
26 the taxpayer and the borrower should be divided into

1 the basis of the Section 201(h) investment credit  
2 property which secures the loan or loans, using for  
3 this purpose the original basis of such property on the  
4 date that it was placed in service in a federally  
5 designated Foreign Trade Zone or Sub-Zone located in  
6 Illinois. No taxpayer that is eligible for the  
7 deduction provided in subparagraph (M) of paragraph  
8 (2) of this subsection shall be eligible for the  
9 deduction provided under this subparagraph (M-1). The  
10 subtraction modification available to taxpayers in any  
11 year under this subsection shall be that portion of the  
12 total interest paid by the borrower with respect to  
13 such loan attributable to the eligible property as  
14 calculated under the previous sentence;

15 (N) Two times any contribution made during the  
16 taxable year to a designated zone organization to the  
17 extent that the contribution (i) qualifies as a  
18 charitable contribution under subsection (c) of  
19 Section 170 of the Internal Revenue Code and (ii) must,  
20 by its terms, be used for a project approved by the  
21 Department of Commerce and Economic Opportunity under  
22 Section 11 of the Illinois Enterprise Zone Act or under  
23 Section 10-10 of the River Edge Redevelopment Zone Act.  
24 This subparagraph (N) is exempt from the provisions of  
25 Section 250;

26 (O) An amount equal to: (i) 85% for taxable years

1 ending on or before December 31, 1992, or, a percentage  
2 equal to the percentage allowable under Section  
3 243(a)(1) of the Internal Revenue Code of 1986 for  
4 taxable years ending after December 31, 1992, of the  
5 amount by which dividends included in taxable income  
6 and received from a corporation that is not created or  
7 organized under the laws of the United States or any  
8 state or political subdivision thereof, including, for  
9 taxable years ending on or after December 31, 1988,  
10 dividends received or deemed received or paid or deemed  
11 paid under Sections 951 through 965 of the Internal  
12 Revenue Code, exceed the amount of the modification  
13 provided under subparagraph (G) of paragraph (2) of  
14 this subsection (b) which is related to such dividends,  
15 and including, for taxable years ending on or after  
16 December 31, 2008, dividends received from a captive  
17 real estate investment trust; plus (ii) 100% of the  
18 amount by which dividends, included in taxable income  
19 and received, including, for taxable years ending on or  
20 after December 31, 1988, dividends received or deemed  
21 received or paid or deemed paid under Sections 951  
22 through 964 of the Internal Revenue Code and including,  
23 for taxable years ending on or after December 31, 2008,  
24 dividends received from a captive real estate  
25 investment trust, from any such corporation specified  
26 in clause (i) that would but for the provisions of

1 Section 1504(b)(3) of the Internal Revenue Code be  
2 treated as a member of the affiliated group which  
3 includes the dividend recipient, exceed the amount of  
4 the modification provided under subparagraph (G) of  
5 paragraph (2) of this subsection (b) which is related  
6 to such dividends. For tax years beginning on or after  
7 January 1, 2019, the deduction for dividends received  
8 from a corporation that is not created or organized  
9 under the laws of the United States or any state or  
10 political subdivision thereof and making a water's  
11 edge election under subsection (e-5) of Section 304 is  
12 limited to 75% of dividends received. This  
13 subparagraph (O) is exempt from the provisions of  
14 Section 250 of this Act;

15 (P) An amount equal to any contribution made to a  
16 job training project established pursuant to the Tax  
17 Increment Allocation Redevelopment Act;

18 (Q) An amount equal to the amount of the deduction  
19 used to compute the federal income tax credit for  
20 restoration of substantial amounts held under claim of  
21 right for the taxable year pursuant to Section 1341 of  
22 the Internal Revenue Code;

23 (R) On and after July 20, 1999, in the case of an  
24 attorney-in-fact with respect to whom an interinsurer  
25 or a reciprocal insurer has made the election under  
26 Section 835 of the Internal Revenue Code, 26 U.S.C.

1 835, an amount equal to the excess, if any, of the  
2 amounts paid or incurred by that interinsurer or  
3 reciprocal insurer in the taxable year to the  
4 attorney-in-fact over the deduction allowed to that  
5 interinsurer or reciprocal insurer with respect to the  
6 attorney-in-fact under Section 835(b) of the Internal  
7 Revenue Code for the taxable year; the provisions of  
8 this subparagraph are exempt from the provisions of  
9 Section 250;

10 (S) For taxable years ending on or after December  
11 31, 1997, in the case of a Subchapter S corporation, an  
12 amount equal to all amounts of income allocable to a  
13 shareholder subject to the Personal Property Tax  
14 Replacement Income Tax imposed by subsections (c) and  
15 (d) of Section 201 of this Act, including amounts  
16 allocable to organizations exempt from federal income  
17 tax by reason of Section 501(a) of the Internal Revenue  
18 Code. This subparagraph (S) is exempt from the  
19 provisions of Section 250;

20 (T) For taxable years 2001 and thereafter, for the  
21 taxable year in which the bonus depreciation deduction  
22 is taken on the taxpayer's federal income tax return  
23 under subsection (k) of Section 168 of the Internal  
24 Revenue Code and for each applicable taxable year  
25 thereafter, an amount equal to "x", where:

26 (1) "y" equals the amount of the depreciation



1 deduction taken for the taxable year on the  
2 taxpayer's federal income tax return on property  
3 for which the bonus depreciation deduction was  
4 taken in any year under subsection (k) of Section  
5 168 of the Internal Revenue Code, but not including  
6 the bonus depreciation deduction;

7 (2) for taxable years ending on or before  
8 December 31, 2005, "x" equals "y" multiplied by 30  
9 and then divided by 70 (or "y" multiplied by  
10 0.429); and

11 (3) for taxable years ending after December  
12 31, 2005:

13 (i) for property on which a bonus  
14 depreciation deduction of 30% of the adjusted  
15 basis was taken, "x" equals "y" multiplied by  
16 30 and then divided by 70 (or "y" multiplied by  
17 0.429); and

18 (ii) for property on which a bonus  
19 depreciation deduction of 50% of the adjusted  
20 basis was taken, "x" equals "y" multiplied by  
21 1.0.

22 The aggregate amount deducted under this  
23 subparagraph in all taxable years for any one piece of  
24 property may not exceed the amount of the bonus  
25 depreciation deduction taken on that property on the  
26 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code. This  
2 subparagraph (T) is exempt from the provisions of  
3 Section 250;

4 (U) If the taxpayer sells, transfers, abandons, or  
5 otherwise disposes of property for which the taxpayer  
6 was required in any taxable year to make an addition  
7 modification under subparagraph (E-10), then an amount  
8 equal to that addition modification.

9 If the taxpayer continues to own property through  
10 the last day of the last tax year for which the  
11 taxpayer may claim a depreciation deduction for  
12 federal income tax purposes and for which the taxpayer  
13 was required in any taxable year to make an addition  
14 modification under subparagraph (E-10), then an amount  
15 equal to that addition modification.

16 The taxpayer is allowed to take the deduction under  
17 this subparagraph only once with respect to any one  
18 piece of property.

19 This subparagraph (U) is exempt from the  
20 provisions of Section 250;

21 (V) The amount of: (i) any interest income (net of  
22 the deductions allocable thereto) taken into account  
23 for the taxable year with respect to a transaction with  
24 a taxpayer that is required to make an addition  
25 modification with respect to such transaction under  
26 Section 203(a)(2)(D-17), 203(b)(2)(E-12),

1 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
2 the amount of such addition modification, (ii) any  
3 income from intangible property (net of the deductions  
4 allocable thereto) taken into account for the taxable  
5 year with respect to a transaction with a taxpayer that  
6 is required to make an addition modification with  
7 respect to such transaction under Section  
8 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
9 203(d)(2)(D-8), but not to exceed the amount of such  
10 addition modification, and (iii) any insurance premium  
11 income (net of deductions allocable thereto) taken  
12 into account for the taxable year with respect to a  
13 transaction with a taxpayer that is required to make an  
14 addition modification with respect to such transaction  
15 under Section 203(a)(2)(D-19), Section  
16 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
17 203(d)(2)(D-9), but not to exceed the amount of that  
18 addition modification. This subparagraph (V) is exempt  
19 from the provisions of Section 250;

20 (W) An amount equal to the interest income taken  
21 into account for the taxable year (net of the  
22 deductions allocable thereto) with respect to  
23 transactions with (i) a foreign person who would be a  
24 member of the taxpayer's unitary business group but for  
25 the fact that the foreign person's business activity  
26 outside the United States is 80% or more of that

1 person's total business activity and (ii) for taxable  
2 years ending on or after December 31, 2008, to a person  
3 who would be a member of the same unitary business  
4 group but for the fact that the person is prohibited  
5 under Section 1501(a)(27) from being included in the  
6 unitary business group because he or she is ordinarily  
7 required to apportion business income under different  
8 subsections of Section 304, but not to exceed the  
9 addition modification required to be made for the same  
10 taxable year under Section 203(b)(2)(E-12) for  
11 interest paid, accrued, or incurred, directly or  
12 indirectly, to the same person. This subparagraph (W)  
13 is exempt from the provisions of Section 250;

14 (X) An amount equal to the income from intangible  
15 property taken into account for the taxable year (net  
16 of the deductions allocable thereto) with respect to  
17 transactions with (i) a foreign person who would be a  
18 member of the taxpayer's unitary business group but for  
19 the fact that the foreign person's business activity  
20 outside the United States is 80% or more of that  
21 person's total business activity and (ii) for taxable  
22 years ending on or after December 31, 2008, to a person  
23 who would be a member of the same unitary business  
24 group but for the fact that the person is prohibited  
25 under Section 1501(a)(27) from being included in the  
26 unitary business group because he or she is ordinarily

1 required to apportion business income under different  
2 subsections of Section 304, but not to exceed the  
3 addition modification required to be made for the same  
4 taxable year under Section 203(b)(2)(E-13) for  
5 intangible expenses and costs paid, accrued, or  
6 incurred, directly or indirectly, to the same foreign  
7 person. This subparagraph (X) is exempt from the  
8 provisions of Section 250;

9 (Y) For taxable years ending on or after December  
10 31, 2011, in the case of a taxpayer who was required to  
11 add back any insurance premiums under Section  
12 203(b)(2)(E-14), such taxpayer may elect to subtract  
13 that part of a reimbursement received from the  
14 insurance company equal to the amount of the expense or  
15 loss (including expenses incurred by the insurance  
16 company) that would have been taken into account as a  
17 deduction for federal income tax purposes if the  
18 expense or loss had been uninsured. If a taxpayer makes  
19 the election provided for by this subparagraph (Y), the  
20 insurer to which the premiums were paid must add back  
21 to income the amount subtracted by the taxpayer  
22 pursuant to this subparagraph (Y). This subparagraph  
23 (Y) is exempt from the provisions of Section 250; and

24 (Z) The difference between the nondeductible  
25 controlled foreign corporation dividends under Section  
26 965(e)(3) of the Internal Revenue Code over the taxable

1 income of the taxpayer, computed without regard to  
2 Section 965(e)(2)(A) of the Internal Revenue Code, and  
3 without regard to any net operating loss deduction.  
4 This subparagraph (Z) is exempt from the provisions of  
5 Section 250.

6 (3) Special rule. For purposes of paragraph (2)(A),  
7 "gross income" in the case of a life insurance company, for  
8 tax years ending on and after December 31, 1994, and prior  
9 to December 31, 2011, shall mean the gross investment  
10 income for the taxable year and, for tax years ending on or  
11 after December 31, 2011, shall mean all amounts included in  
12 life insurance gross income under Section 803(a)(3) of the  
13 Internal Revenue Code.

14 (c) Trusts and estates.

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

18 (2) Modifications. Subject to the provisions of  
19 paragraph (3), the taxable income referred to in paragraph  
20 (1) shall be modified by adding thereto the sum of the  
21 following amounts:

22 (A) An amount equal to all amounts paid or accrued  
23 to the taxpayer as interest or dividends during the  
24 taxable year to the extent excluded from gross income  
25 in the computation of taxable income;

1 (B) In the case of (i) an estate, \$600; (ii) a  
2 trust which, under its governing instrument, is  
3 required to distribute all of its income currently,  
4 \$300; and (iii) any other trust, \$100, but in each such  
5 case, only to the extent such amount was deducted in  
6 the computation of taxable income;

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

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

14 (E) For taxable years in which a net operating loss  
15 carryback or carryforward from a taxable year ending  
16 prior to December 31, 1986 is an element of taxable  
17 income under paragraph (1) of subsection (e) or  
18 subparagraph (E) of paragraph (2) of subsection (e),  
19 the amount by which addition modifications other than  
20 those provided by this subparagraph (E) exceeded  
21 subtraction modifications in such taxable year, with  
22 the following limitations applied in the order that  
23 they are listed:

24 (i) the addition modification relating to the  
25 net operating loss carried back or forward to the  
26 taxable year from any taxable year ending prior to

1 December 31, 1986 shall be reduced by the amount of  
2 addition modification under this subparagraph (E)  
3 which related to that net operating loss and which  
4 was taken into account in calculating the base  
5 income of an earlier taxable year, and

6 (ii) the addition modification relating to the  
7 net operating loss carried back or forward to the  
8 taxable year from any taxable year ending prior to  
9 December 31, 1986 shall not exceed the amount of  
10 such carryback or carryforward;

11 For taxable years in which there is a net operating  
12 loss carryback or carryforward from more than one other  
13 taxable year ending prior to December 31, 1986, the  
14 addition modification provided in this subparagraph  
15 (E) shall be the sum of the amounts computed  
16 independently under the preceding provisions of this  
17 subparagraph (E) for each such taxable year;

18 (F) For taxable years ending on or after January 1,  
19 1989, an amount equal to the tax deducted pursuant to  
20 Section 164 of the Internal Revenue Code if the trust  
21 or estate is claiming the same tax for purposes of the  
22 Illinois foreign tax credit under Section 601 of this  
23 Act;

24 (G) An amount equal to the amount of the capital  
25 gain deduction allowable under the Internal Revenue  
26 Code, to the extent deducted from gross income in the



1 computation of taxable income;

2 (G-5) For taxable years ending after December 31,  
3 1997, an amount equal to any eligible remediation costs  
4 that the trust or estate deducted in computing adjusted  
5 gross income and for which the trust or estate claims a  
6 credit under subsection (l) of Section 201;

7 (G-10) For taxable years 2001 and thereafter, an  
8 amount equal to the bonus depreciation deduction taken  
9 on the taxpayer's federal income tax return for the  
10 taxable year under subsection (k) of Section 168 of the  
11 Internal Revenue Code; and

12 (G-11) If the taxpayer sells, transfers, abandons,  
13 or otherwise disposes of property for which the  
14 taxpayer was required in any taxable year to make an  
15 addition modification under subparagraph (G-10), then  
16 an amount equal to the aggregate amount of the  
17 deductions taken in all taxable years under  
18 subparagraph (R) with respect to that property.

19 If the taxpayer continues to own property through  
20 the last day of the last tax year for which the  
21 taxpayer may claim a depreciation deduction for  
22 federal income tax purposes and for which the taxpayer  
23 was allowed in any taxable year to make a subtraction  
24 modification under subparagraph (R), then an amount  
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

1 modification under this subparagraph only once with  
2 respect to any one piece of property;

3 (G-12) An amount equal to the amount otherwise  
4 allowed as a deduction in computing base income for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, (i) for taxable years ending on or after  
7 December 31, 2004, to a foreign person who would be a  
8 member of the same unitary business group but for the  
9 fact that the foreign person's business activity  
10 outside the United States is 80% or more of the foreign  
11 person's total business activity and (ii) for taxable  
12 years ending on or after December 31, 2008, to a person  
13 who would be a member of the same unitary business  
14 group but for the fact that the person is prohibited  
15 under Section 1501(a)(27) from being included in the  
16 unitary business group because he or she is ordinarily  
17 required to apportion business income under different  
18 subsections of Section 304. The addition modification  
19 required by this subparagraph shall be reduced to the  
20 extent that dividends were included in base income of  
21 the unitary group for the same taxable year and  
22 received by the taxpayer or by a member of the  
23 taxpayer's unitary business group (including amounts  
24 included in gross income pursuant to Sections 951  
25 through 964 of the Internal Revenue Code and amounts  
26 included in gross income under Section 78 of the

1 Internal Revenue Code) with respect to the stock of the  
2 same person to whom the interest was paid, accrued, or  
3 incurred.

4 This paragraph shall not apply to the following:

5 (i) an item of interest paid, accrued, or  
6 incurred, directly or indirectly, to a person who  
7 is subject in a foreign country or state, other  
8 than a state which requires mandatory unitary  
9 reporting, to a tax on or measured by net income  
10 with respect to such interest; or

11 (ii) an item of interest paid, accrued, or  
12 incurred, directly or indirectly, to a person if  
13 the taxpayer can establish, based on a  
14 preponderance of the evidence, both of the  
15 following:

16 (a) the person, during the same taxable  
17 year, paid, accrued, or incurred, the interest  
18 to a person that is not a related member, and

19 (b) the transaction giving rise to the  
20 interest expense between the taxpayer and the  
21 person did not have as a principal purpose the  
22 avoidance of Illinois income tax, and is paid  
23 pursuant to a contract or agreement that  
24 reflects an arm's-length interest rate and  
25 terms; or

26 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest  
2 paid, accrued, or incurred relates to a contract or  
3 agreement entered into at arm's-length rates and  
4 terms and the principal purpose for the payment is  
5 not federal or Illinois tax avoidance; or

6 (iv) an item of interest paid, accrued, or  
7 incurred, directly or indirectly, to a person if  
8 the taxpayer establishes by clear and convincing  
9 evidence that the adjustments are unreasonable; or  
10 if the taxpayer and the Director agree in writing  
11 to the application or use of an alternative method  
12 of apportionment under Section 304(f).

13 Nothing in this subsection shall preclude the  
14 Director from making any other adjustment  
15 otherwise allowed under Section 404 of this Act for  
16 any tax year beginning after the effective date of  
17 this amendment provided such adjustment is made  
18 pursuant to regulation adopted by the Department  
19 and such regulations provide methods and standards  
20 by which the Department will utilize its authority  
21 under Section 404 of this Act;

22 (G-13) An amount equal to the amount of intangible  
23 expenses and costs otherwise allowed as a deduction in  
24 computing base income, and that were paid, accrued, or  
25 incurred, directly or indirectly, (i) for taxable  
26 years ending on or after December 31, 2004, to a

1 foreign person who would be a member of the same  
2 unitary business group but for the fact that the  
3 foreign person's business activity outside the United  
4 States is 80% or more of that person's total business  
5 activity and (ii) for taxable years ending on or after  
6 December 31, 2008, to a person who would be a member of  
7 the same unitary business group but for the fact that  
8 the person is prohibited under Section 1501(a) (27)  
9 from being included in the unitary business group  
10 because he or she is ordinarily required to apportion  
11 business income under different subsections of Section  
12 304. The addition modification required by this  
13 subparagraph shall be reduced to the extent that  
14 dividends were included in base income of the unitary  
15 group for the same taxable year and received by the  
16 taxpayer or by a member of the taxpayer's unitary  
17 business group (including amounts included in gross  
18 income pursuant to Sections 951 through 964 of the  
19 Internal Revenue Code and amounts included in gross  
20 income under Section 78 of the Internal Revenue Code)  
21 with respect to the stock of the same person to whom  
22 the intangible expenses and costs were directly or  
23 indirectly paid, incurred, or accrued. The preceding  
24 sentence shall not apply to the extent that the same  
25 dividends caused a reduction to the addition  
26 modification required under Section 203(c) (2) (G-12) of

1           this Act. As used in this subparagraph, the term  
2           "intangible expenses and costs" includes: (1)  
3           expenses, losses, and costs for or related to the  
4           direct or indirect acquisition, use, maintenance or  
5           management, ownership, sale, exchange, or any other  
6           disposition of intangible property; (2) losses  
7           incurred, directly or indirectly, from factoring  
8           transactions or discounting transactions; (3) royalty,  
9           patent, technical, and copyright fees; (4) licensing  
10          fees; and (5) other similar expenses and costs. For  
11          purposes of this subparagraph, "intangible property"  
12          includes patents, patent applications, trade names,  
13          trademarks, service marks, copyrights, mask works,  
14          trade secrets, and similar types of intangible assets.

15                 This paragraph shall not apply to the following:

16                         (i) any item of intangible expenses or costs  
17                         paid, accrued, or incurred, directly or  
18                         indirectly, from a transaction with a person who is  
19                         subject in a foreign country or state, other than a  
20                         state which requires mandatory unitary reporting,  
21                         to a tax on or measured by net income with respect  
22                         to such item; or

23                         (ii) any item of intangible expense or cost  
24                         paid, accrued, or incurred, directly or  
25                         indirectly, if the taxpayer can establish, based  
26                         on a preponderance of the evidence, both of the

1 following:

2 (a) the person during the same taxable  
3 year paid, accrued, or incurred, the  
4 intangible expense or cost to a person that is  
5 not a related member, and

6 (b) the transaction giving rise to the  
7 intangible expense or cost between the  
8 taxpayer and the person did not have as a  
9 principal purpose the avoidance of Illinois  
10 income tax, and is paid pursuant to a contract  
11 or agreement that reflects arm's-length terms;  
12 or

13 (iii) any item of intangible expense or cost  
14 paid, accrued, or incurred, directly or  
15 indirectly, from a transaction with a person if the  
16 taxpayer establishes by clear and convincing  
17 evidence, that the adjustments are unreasonable;  
18 or if the taxpayer and the Director agree in  
19 writing to the application or use of an alternative  
20 method of apportionment under Section 304(f);

21 Nothing in this subsection shall preclude the  
22 Director from making any other adjustment  
23 otherwise allowed under Section 404 of this Act for  
24 any tax year beginning after the effective date of  
25 this amendment provided such adjustment is made  
26 pursuant to regulation adopted by the Department

1           and such regulations provide methods and standards  
2           by which the Department will utilize its authority  
3           under Section 404 of this Act;

4           (G-14) For taxable years ending on or after  
5           December 31, 2008, an amount equal to the amount of  
6           insurance premium expenses and costs otherwise allowed  
7           as a deduction in computing base income, and that were  
8           paid, accrued, or incurred, directly or indirectly, to  
9           a person who would be a member of the same unitary  
10          business group but for the fact that the person is  
11          prohibited under Section 1501(a)(27) from being  
12          included in the unitary business group because he or  
13          she is ordinarily required to apportion business  
14          income under different subsections of Section 304. The  
15          addition modification required by this subparagraph  
16          shall be reduced to the extent that dividends were  
17          included in base income of the unitary group for the  
18          same taxable year and received by the taxpayer or by a  
19          member of the taxpayer's unitary business group  
20          (including amounts included in gross income under  
21          Sections 951 through 964 of the Internal Revenue Code  
22          and amounts included in gross income under Section 78  
23          of the Internal Revenue Code) with respect to the stock  
24          of the same person to whom the premiums and costs were  
25          directly or indirectly paid, incurred, or accrued. The  
26          preceding sentence does not apply to the extent that



1 the same dividends caused a reduction to the addition  
2 modification required under Section 203(c)(2)(G-12) or  
3 Section 203(c)(2)(G-13) of this Act;

4 (G-15) An amount equal to the credit allowable to  
5 the taxpayer under Section 218(a) of this Act,  
6 determined without regard to Section 218(c) of this  
7 Act;

8 (G-16) For taxable years ending on or after  
9 December 31, 2017, an amount equal to the deduction  
10 allowed under Section 199 of the Internal Revenue Code  
11 for the taxable year;

12 and by deducting from the total so obtained the sum of the  
13 following amounts:

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

25 (I) The valuation limitation amount;

26 (J) An amount equal to the amount of any tax

1 imposed by this Act which was refunded to the taxpayer  
2 and included in such total for the taxable year;

3 (K) An amount equal to all amounts included in  
4 taxable income as modified by subparagraphs (A), (B),  
5 (C), (D), (E), (F) and (G) which are exempt from  
6 taxation by this State either by reason of its statutes  
7 or Constitution or by reason of the Constitution,  
8 treaties or statutes of the United States; provided  
9 that, in the case of any statute of this State that  
10 exempts income derived from bonds or other obligations  
11 from the tax imposed under this Act, the amount  
12 exempted shall be the interest net of bond premium  
13 amortization;

14 (L) With the exception of any amounts subtracted  
15 under subparagraph (K), an amount equal to the sum of  
16 all amounts disallowed as deductions by (i) Sections  
17 171(a)(2) and 265(a)(2) of the Internal Revenue Code,  
18 and all amounts of expenses allocable to interest and  
19 disallowed as deductions by Section 265(a)(1) ~~265(1)~~  
20 of the Internal Revenue Code; and (ii) for taxable  
21 years ending on or after August 13, 1999, Sections  
22 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the  
23 Internal Revenue Code, plus, (iii) for taxable years  
24 ending on or after December 31, 2011, Section 45G(e)(3)  
25 of the Internal Revenue Code and, for taxable years  
26 ending on or after December 31, 2008, any amount

1 included in gross income under Section 87 of the  
2 Internal Revenue Code; the provisions of this  
3 subparagraph are exempt from the provisions of Section  
4 250;

5 (M) An amount equal to those dividends included in  
6 such total which were paid by a corporation which  
7 conducts business operations in a River Edge  
8 Redevelopment Zone or zones created under the River  
9 Edge Redevelopment Zone Act and conducts substantially  
10 all of its operations in a River Edge Redevelopment  
11 Zone or zones. This subparagraph (M) is exempt from the  
12 provisions of Section 250;

13 (N) An amount equal to any contribution made to a  
14 job training project established pursuant to the Tax  
15 Increment Allocation Redevelopment Act;

16 (O) An amount equal to those dividends included in  
17 such total that were paid by a corporation that  
18 conducts business operations in a federally designated  
19 Foreign Trade Zone or Sub-Zone and that is designated a  
20 High Impact Business located in Illinois; provided  
21 that dividends eligible for the deduction provided in  
22 subparagraph (M) of paragraph (2) of this subsection  
23 shall not be eligible for the deduction provided under  
24 this subparagraph (O);

25 (P) An amount equal to the amount of the deduction  
26 used to compute the federal income tax credit for

1 restoration of substantial amounts held under claim of  
2 right for the taxable year pursuant to Section 1341 of  
3 the Internal Revenue Code;

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

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

11           (R) For taxable years 2001 and thereafter, for the  
12          taxable year in which the bonus depreciation deduction  
13          is taken on the taxpayer's federal income tax return  
14          under subsection (k) of Section 168 of the Internal  
15          Revenue Code and for each applicable taxable year  
16          thereafter, an amount equal to "x", where:

17           (1) "y" equals the amount of the depreciation  
18          deduction taken for the taxable year on the  
19          taxpayer's federal income tax return on property  
20          for which the bonus depreciation deduction was  
21          taken in any year under subsection (k) of Section  
22          168 of the Internal Revenue Code, but not including  
23          the bonus depreciation deduction;

24           (2) for taxable years ending on or before  
25          December 31, 2005, "x" equals "y" multiplied by 30  
26          and then divided by 70 (or "y" multiplied by

1           0.429); and

2                   (3) for taxable years ending after December  
3           31, 2005:

4                   (i) for property on which a bonus  
5                   depreciation deduction of 30% of the adjusted  
6                   basis was taken, "x" equals "y" multiplied by  
7                   30 and then divided by 70 (or "y" multiplied by  
8                   0.429); and

9                   (ii) for property on which a bonus  
10                   depreciation deduction of 50% of the adjusted  
11                   basis was taken, "x" equals "y" multiplied by  
12                   1.0.

13           The aggregate amount deducted under this  
14           subparagraph in all taxable years for any one piece of  
15           property may not exceed the amount of the bonus  
16           depreciation deduction taken on that property on the  
17           taxpayer's federal income tax return under subsection  
18           (k) of Section 168 of the Internal Revenue Code. This  
19           subparagraph (R) is exempt from the provisions of  
20           Section 250;

21                   (S) If the taxpayer sells, transfers, abandons, or  
22                   otherwise disposes of property for which the taxpayer  
23                   was required in any taxable year to make an addition  
24                   modification under subparagraph (G-10), then an amount  
25                   equal to that addition modification.

26                   If the taxpayer continues to own property through

1 the last day of the last tax year for which the  
2 taxpayer may claim a depreciation deduction for  
3 federal income tax purposes and for which the taxpayer  
4 was required in any taxable year to make an addition  
5 modification under subparagraph (G-10), then an amount  
6 equal to that addition modification.

7 The taxpayer is allowed to take the deduction under  
8 this subparagraph only once with respect to any one  
9 piece of property.

10 This subparagraph (S) is exempt from the  
11 provisions of Section 250;

12 (T) The amount of (i) any interest income (net of  
13 the deductions allocable thereto) taken into account  
14 for the taxable year with respect to a transaction with  
15 a taxpayer that is required to make an addition  
16 modification with respect to such transaction under  
17 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
18 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
19 the amount of such addition modification and (ii) any  
20 income from intangible property (net of the deductions  
21 allocable thereto) taken into account for the taxable  
22 year with respect to a transaction with a taxpayer that  
23 is required to make an addition modification with  
24 respect to such transaction under Section  
25 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
26 203(d)(2)(D-8), but not to exceed the amount of such

1 addition modification. This subparagraph (T) is exempt  
2 from the provisions of Section 250;

3 (U) An amount equal to the interest income taken  
4 into account for the taxable year (net of the  
5 deductions allocable thereto) with respect to  
6 transactions with (i) a foreign person who would be a  
7 member of the taxpayer's unitary business group but for  
8 the fact the foreign person's business activity  
9 outside the United States is 80% or more of that  
10 person's total business activity and (ii) for taxable  
11 years ending on or after December 31, 2008, to a person  
12 who would be a member of the same unitary business  
13 group but for the fact that the person is prohibited  
14 under Section 1501(a)(27) from being included in the  
15 unitary business group because he or she is ordinarily  
16 required to apportion business income under different  
17 subsections of Section 304, but not to exceed the  
18 addition modification required to be made for the same  
19 taxable year under Section 203(c)(2)(G-12) for  
20 interest paid, accrued, or incurred, directly or  
21 indirectly, to the same person. This subparagraph (U)  
22 is exempt from the provisions of Section 250;

23 (V) An amount equal to the income from intangible  
24 property taken into account for the taxable year (net  
25 of the deductions allocable thereto) with respect to  
26 transactions with (i) a foreign person who would be a



1 member of the taxpayer's unitary business group but for  
2 the fact that the foreign person's business activity  
3 outside the United States is 80% or more of that  
4 person's total business activity and (ii) for taxable  
5 years ending on or after December 31, 2008, to a person  
6 who would be a member of the same unitary business  
7 group but for the fact that the person is prohibited  
8 under Section 1501(a)(27) from being included in the  
9 unitary business group because he or she is ordinarily  
10 required to apportion business income under different  
11 subsections of Section 304, but not to exceed the  
12 addition modification required to be made for the same  
13 taxable year under Section 203(c)(2)(G-13) for  
14 intangible expenses and costs paid, accrued, or  
15 incurred, directly or indirectly, to the same foreign  
16 person. This subparagraph (V) is exempt from the  
17 provisions of Section 250;

18 (W) in the case of an estate, an amount equal to  
19 all amounts included in such total pursuant to the  
20 provisions of Section 111 of the Internal Revenue Code  
21 as a recovery of items previously deducted by the  
22 decedent from adjusted gross income in the computation  
23 of taxable income. This subparagraph (W) is exempt from  
24 Section 250;

25 (X) an amount equal to the refund included in such  
26 total of any tax deducted for federal income tax

1 purposes, to the extent that deduction was added back  
2 under subparagraph (F). This subparagraph (X) is  
3 exempt from the provisions of Section 250; and

4 (Y) For taxable years ending on or after December  
5 31, 2011, in the case of a taxpayer who was required to  
6 add back any insurance premiums under Section  
7 203(c)(2)(G-14), such taxpayer may elect to subtract  
8 that part of a reimbursement received from the  
9 insurance company equal to the amount of the expense or  
10 loss (including expenses incurred by the insurance  
11 company) that would have been taken into account as a  
12 deduction for federal income tax purposes if the  
13 expense or loss had been uninsured. If a taxpayer makes  
14 the election provided for by this subparagraph (Y), the  
15 insurer to which the premiums were paid must add back  
16 to income the amount subtracted by the taxpayer  
17 pursuant to this subparagraph (Y). This subparagraph  
18 (Y) is exempt from the provisions of Section 250.

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

1 (d) Partnerships.

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

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

8 (A) An amount equal to all amounts paid or accrued  
9 to the taxpayer as interest or dividends during the  
10 taxable year to the extent excluded from gross income  
11 in the computation of taxable income;

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

15 (C) The amount of deductions allowed to the  
16 partnership pursuant to Section 707 (c) of the Internal  
17 Revenue Code in calculating its taxable income;

18 (D) An amount equal to the amount of the capital  
19 gain deduction allowable under the Internal Revenue  
20 Code, to the extent deducted from gross income in the  
21 computation of taxable income;

22 (D-5) For taxable years 2001 and thereafter, an  
23 amount equal to the bonus depreciation deduction taken  
24 on the taxpayer's federal income tax return for the  
25 taxable year under subsection (k) of Section 168 of the  
26 Internal Revenue Code;

1 (D-6) If the taxpayer sells, transfers, abandons,  
2 or otherwise disposes of property for which the  
3 taxpayer was required in any taxable year to make an  
4 addition modification under subparagraph (D-5), then  
5 an amount equal to the aggregate amount of the  
6 deductions taken in all taxable years under  
7 subparagraph (O) with respect to that property.

8 If the taxpayer continues to own property through  
9 the last day of the last tax year for which the  
10 taxpayer may claim a depreciation deduction for  
11 federal income tax purposes and for which the taxpayer  
12 was allowed in any taxable year to make a subtraction  
13 modification under subparagraph (O), then an amount  
14 equal to that subtraction modification.

15 The taxpayer is required to make the addition  
16 modification under this subparagraph only once with  
17 respect to any one piece of property;

18 (D-7) An amount equal to the amount otherwise  
19 allowed as a deduction in computing base income for  
20 interest paid, accrued, or incurred, directly or  
21 indirectly, (i) for taxable years ending on or after  
22 December 31, 2004, to a foreign person who would be a  
23 member of the same unitary business group but for the  
24 fact the foreign person's business activity outside  
25 the United States is 80% or more of the foreign  
26 person's total business activity and (ii) for taxable

1 years ending on or after December 31, 2008, to a person  
2 who would be a member of the same unitary business  
3 group but for the fact that the person is prohibited  
4 under Section 1501(a)(27) from being included in the  
5 unitary business group because he or she is ordinarily  
6 required to apportion business income under different  
7 subsections of Section 304. The addition modification  
8 required by this subparagraph shall be reduced to the  
9 extent that dividends were included in base income of  
10 the unitary group for the same taxable year and  
11 received by the taxpayer or by a member of the  
12 taxpayer's unitary business group (including amounts  
13 included in gross income pursuant to Sections 951  
14 through 964 of the Internal Revenue Code and amounts  
15 included in gross income under Section 78 of the  
16 Internal Revenue Code) with respect to the stock of the  
17 same person to whom the interest was paid, accrued, or  
18 incurred.

19 This paragraph shall not apply to the following:

20 (i) an item of interest paid, accrued, or  
21 incurred, directly or indirectly, to a person who  
22 is subject in a foreign country or state, other  
23 than a state which requires mandatory unitary  
24 reporting, to a tax on or measured by net income  
25 with respect to such interest; or

26 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a person if  
2 the taxpayer can establish, based on a  
3 preponderance of the evidence, both of the  
4 following:

5 (a) the person, during the same taxable  
6 year, paid, accrued, or incurred, the interest  
7 to a person that is not a related member, and

8 (b) the transaction giving rise to the  
9 interest expense between the taxpayer and the  
10 person did not have as a principal purpose the  
11 avoidance of Illinois income tax, and is paid  
12 pursuant to a contract or agreement that  
13 reflects an arm's-length interest rate and  
14 terms; or

15 (iii) the taxpayer can establish, based on  
16 clear and convincing evidence, that the interest  
17 paid, accrued, or incurred relates to a contract or  
18 agreement entered into at arm's-length rates and  
19 terms and the principal purpose for the payment is  
20 not federal or Illinois tax avoidance; or

21 (iv) an item of interest paid, accrued, or  
22 incurred, directly or indirectly, to a person if  
23 the taxpayer establishes by clear and convincing  
24 evidence that the adjustments are unreasonable; or  
25 if the taxpayer and the Director agree in writing  
26 to the application or use of an alternative method

1 of apportionment under Section 304(f).

2 Nothing in this subsection shall preclude the  
3 Director from making any other adjustment  
4 otherwise allowed under Section 404 of this Act for  
5 any tax year beginning after the effective date of  
6 this amendment provided such adjustment is made  
7 pursuant to regulation adopted by the Department  
8 and such regulations provide methods and standards  
9 by which the Department will utilize its authority  
10 under Section 404 of this Act; and

11 (D-8) An amount equal to the amount of intangible  
12 expenses and costs otherwise allowed as a deduction in  
13 computing base income, and that were paid, accrued, or  
14 incurred, directly or indirectly, (i) for taxable  
15 years ending on or after December 31, 2004, to a  
16 foreign person who would be a member of the same  
17 unitary business group but for the fact that the  
18 foreign person's business activity outside the United  
19 States is 80% or more of that person's total business  
20 activity and (ii) for taxable years ending on or after  
21 December 31, 2008, to a person who would be a member of  
22 the same unitary business group but for the fact that  
23 the person is prohibited under Section 1501(a)(27)  
24 from being included in the unitary business group  
25 because he or she is ordinarily required to apportion  
26 business income under different subsections of Section

1           304. The addition modification required by this  
2           subparagraph shall be reduced to the extent that  
3           dividends were included in base income of the unitary  
4           group for the same taxable year and received by the  
5           taxpayer or by a member of the taxpayer's unitary  
6           business group (including amounts included in gross  
7           income pursuant to Sections 951 through 964 of the  
8           Internal Revenue Code and amounts included in gross  
9           income under Section 78 of the Internal Revenue Code)  
10          with respect to the stock of the same person to whom  
11          the intangible expenses and costs were directly or  
12          indirectly paid, incurred or accrued. The preceding  
13          sentence shall not apply to the extent that the same  
14          dividends caused a reduction to the addition  
15          modification required under Section 203(d)(2)(D-7) of  
16          this Act. As used in this subparagraph, the term  
17          "intangible expenses and costs" includes (1) expenses,  
18          losses, and costs for, or related to, the direct or  
19          indirect acquisition, use, maintenance or management,  
20          ownership, sale, exchange, or any other disposition of  
21          intangible property; (2) losses incurred, directly or  
22          indirectly, from factoring transactions or discounting  
23          transactions; (3) royalty, patent, technical, and  
24          copyright fees; (4) licensing fees; and (5) other  
25          similar expenses and costs. For purposes of this  
26          subparagraph, "intangible property" includes patents,



1 patent applications, trade names, trademarks, service  
2 marks, copyrights, mask works, trade secrets, and  
3 similar types of intangible assets;

4 This paragraph shall not apply to the following:

5 (i) any item of intangible expenses or costs  
6 paid, accrued, or incurred, directly or  
7 indirectly, from a transaction with a person who is  
8 subject in a foreign country or state, other than a  
9 state which requires mandatory unitary reporting,  
10 to a tax on or measured by net income with respect  
11 to such item; or

12 (ii) any item of intangible expense or cost  
13 paid, accrued, or incurred, directly or  
14 indirectly, if the taxpayer can establish, based  
15 on a preponderance of the evidence, both of the  
16 following:

17 (a) the person during the same taxable  
18 year paid, accrued, or incurred, the  
19 intangible expense or cost to a person that is  
20 not a related member, and

21 (b) the transaction giving rise to the  
22 intangible expense or cost between the  
23 taxpayer and the person did not have as a  
24 principal purpose the avoidance of Illinois  
25 income tax, and is paid pursuant to a contract  
26 or agreement that reflects arm's-length terms;

1                   or

2                   (iii) any item of intangible expense or cost  
3                   paid, accrued, or incurred, directly or  
4                   indirectly, from a transaction with a person if the  
5                   taxpayer establishes by clear and convincing  
6                   evidence, that the adjustments are unreasonable;  
7                   or if the taxpayer and the Director agree in  
8                   writing to the application or use of an alternative  
9                   method of apportionment under Section 304(f);

10                  Nothing in this subsection shall preclude the  
11                  Director from making any other adjustment  
12                  otherwise allowed under Section 404 of this Act for  
13                  any tax year beginning after the effective date of  
14                  this amendment provided such adjustment is made  
15                  pursuant to regulation adopted by the Department  
16                  and such regulations provide methods and standards  
17                  by which the Department will utilize its authority  
18                  under Section 404 of this Act;

19                  (D-9) For taxable years ending on or after December  
20                  31, 2008, an amount equal to the amount of insurance  
21                  premium expenses and costs otherwise allowed as a  
22                  deduction in computing base income, and that were paid,  
23                  accrued, or incurred, directly or indirectly, to a  
24                  person who would be a member of the same unitary  
25                  business group but for the fact that the person is  
26                  prohibited under Section 1501(a)(27) from being

1 included in the unitary business group because he or  
2 she is ordinarily required to apportion business  
3 income under different subsections of Section 304. The  
4 addition modification required by this subparagraph  
5 shall be reduced to the extent that dividends were  
6 included in base income of the unitary group for the  
7 same taxable year and received by the taxpayer or by a  
8 member of the taxpayer's unitary business group  
9 (including amounts included in gross income under  
10 Sections 951 through 964 of the Internal Revenue Code  
11 and amounts included in gross income under Section 78  
12 of the Internal Revenue Code) with respect to the stock  
13 of the same person to whom the premiums and costs were  
14 directly or indirectly paid, incurred, or accrued. The  
15 preceding sentence does not apply to the extent that  
16 the same dividends caused a reduction to the addition  
17 modification required under Section 203(d)(2)(D-7) or  
18 Section 203(d)(2)(D-8) of this Act;

19 (D-10) An amount equal to the credit allowable to  
20 the taxpayer under Section 218(a) of this Act,  
21 determined without regard to Section 218(c) of this  
22 Act;

23 (D-11) For taxable years ending on or after  
24 December 31, 2017, an amount equal to the deduction  
25 allowed under Section 199 of the Internal Revenue Code  
26 for the taxable year;

1 and by deducting from the total so obtained the following  
2 amounts:

3 (E) The valuation limitation amount;

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

7 (G) An amount equal to all amounts included in  
8 taxable income as modified by subparagraphs (A), (B),  
9 (C) and (D) which are exempt from taxation by this  
10 State either by reason of its statutes or Constitution  
11 or by reason of the Constitution, treaties or statutes  
12 of the United States; provided that, in the case of any  
13 statute of this State that exempts income derived from  
14 bonds or other obligations from the tax imposed under  
15 this Act, the amount exempted shall be the interest net  
16 of bond premium amortization;

17 (H) Any income of the partnership which  
18 constitutes personal service income as defined in  
19 Section 1348(b)(1) of the Internal Revenue Code (as in  
20 effect December 31, 1981) or a reasonable allowance for  
21 compensation paid or accrued for services rendered by  
22 partners to the partnership, whichever is greater;  
23 this subparagraph (H) is exempt from the provisions of  
24 Section 250;

25 (I) An amount equal to all amounts of income  
26 distributable to an entity subject to the Personal

1 Property Tax Replacement Income Tax imposed by  
2 subsections (c) and (d) of Section 201 of this Act  
3 including amounts distributable to organizations  
4 exempt from federal income tax by reason of Section  
5 501(a) of the Internal Revenue Code; this subparagraph  
6 (I) is exempt from the provisions of Section 250;

7 (J) With the exception of any amounts subtracted  
8 under subparagraph (G), an amount equal to the sum of  
9 all amounts disallowed as deductions by (i) Sections  
10 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal  
11 Revenue Code, and all amounts of expenses allocable to  
12 interest and disallowed as deductions by Section  
13 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)  
14 for taxable years ending on or after August 13, 1999,  
15 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
16 the Internal Revenue Code, plus, (iii) for taxable  
17 years ending on or after December 31, 2011, Section  
18 45G(e)(3) of the Internal Revenue Code and, for taxable  
19 years ending on or after December 31, 2008, any amount  
20 included in gross income under Section 87 of the  
21 Internal Revenue Code; the provisions of this  
22 subparagraph are exempt from the provisions of Section  
23 250;

24 (K) An amount equal to those dividends included in  
25 such total which were paid by a corporation which  
26 conducts business operations in a River Edge

1           Redevelopment Zone or zones created under the River  
2           Edge Redevelopment Zone Act and conducts substantially  
3           all of its operations from a River Edge Redevelopment  
4           Zone or zones. This subparagraph (K) is exempt from the  
5           provisions of Section 250;

6           (L) An amount equal to any contribution made to a  
7           job training project established pursuant to the Real  
8           Property Tax Increment Allocation Redevelopment Act;

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

18          (N) An amount equal to the amount of the deduction  
19          used to compute the federal income tax credit for  
20          restoration of substantial amounts held under claim of  
21          right for the taxable year pursuant to Section 1341 of  
22          the Internal Revenue Code;

23          (O) For taxable years 2001 and thereafter, for the  
24          taxable year in which the bonus depreciation deduction  
25          is taken on the taxpayer's federal income tax return  
26          under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year  
2 thereafter, an amount equal to "x", where:

3 (1) "y" equals the amount of the depreciation  
4 deduction taken for the taxable year on the  
5 taxpayer's federal income tax return on property  
6 for which the bonus depreciation deduction was  
7 taken in any year under subsection (k) of Section  
8 168 of the Internal Revenue Code, but not including  
9 the bonus depreciation deduction;

10 (2) for taxable years ending on or before  
11 December 31, 2005, "x" equals "y" multiplied by 30  
12 and then divided by 70 (or "y" multiplied by  
13 0.429); and

14 (3) for taxable years ending after December  
15 31, 2005:

16 (i) for property on which a bonus  
17 depreciation deduction of 30% of the adjusted  
18 basis was taken, "x" equals "y" multiplied by  
19 30 and then divided by 70 (or "y" multiplied by  
20 0.429); and

21 (ii) for property on which a bonus  
22 depreciation deduction of 50% of the adjusted  
23 basis was taken, "x" equals "y" multiplied by  
24 1.0.

25 The aggregate amount deducted under this  
26 subparagraph in all taxable years for any one piece of

1 property may not exceed the amount of the bonus  
2 depreciation deduction taken on that property on the  
3 taxpayer's federal income tax return under subsection  
4 (k) of Section 168 of the Internal Revenue Code. This  
5 subparagraph (O) is exempt from the provisions of  
6 Section 250;

7 (P) If the taxpayer sells, transfers, abandons, or  
8 otherwise disposes of property for which the taxpayer  
9 was required in any taxable year to make an addition  
10 modification under subparagraph (D-5), then an amount  
11 equal to that addition modification.

12 If the taxpayer continues to own property through  
13 the last day of the last tax year for which the  
14 taxpayer may claim a depreciation deduction for  
15 federal income tax purposes and for which the taxpayer  
16 was required in any taxable year to make an addition  
17 modification under subparagraph (D-5), then an amount  
18 equal to that addition modification.

19 The taxpayer is allowed to take the deduction under  
20 this subparagraph only once with respect to any one  
21 piece of property.

22 This subparagraph (P) is exempt from the  
23 provisions of Section 250;

24 (Q) The amount of (i) any interest income (net of  
25 the deductions allocable thereto) taken into account  
26 for the taxable year with respect to a transaction with



1 a taxpayer that is required to make an addition  
2 modification with respect to such transaction under  
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
5 the amount of such addition modification and (ii) any  
6 income from intangible property (net of the deductions  
7 allocable thereto) taken into account for the taxable  
8 year with respect to a transaction with a taxpayer that  
9 is required to make an addition modification with  
10 respect to such transaction under Section  
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
12 203(d)(2)(D-8), but not to exceed the amount of such  
13 addition modification. This subparagraph (Q) is exempt  
14 from Section 250;

15 (R) An amount equal to the interest income taken  
16 into account for the taxable year (net of the  
17 deductions allocable thereto) with respect to  
18 transactions with (i) a foreign person who would be a  
19 member of the taxpayer's unitary business group but for  
20 the fact that the foreign person's business activity  
21 outside the United States is 80% or more of that  
22 person's total business activity and (ii) for taxable  
23 years ending on or after December 31, 2008, to a person  
24 who would be a member of the same unitary business  
25 group but for the fact that the person is prohibited  
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily  
2 required to apportion business income under different  
3 subsections of Section 304, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(d)(2)(D-7) for interest  
6 paid, accrued, or incurred, directly or indirectly, to  
7 the same person. This subparagraph (R) is exempt from  
8 Section 250;

9 (S) An amount equal to the income from intangible  
10 property taken into account for the taxable year (net  
11 of the deductions allocable thereto) with respect to  
12 transactions with (i) a foreign person who would be a  
13 member of the taxpayer's unitary business group but for  
14 the fact that the foreign person's business activity  
15 outside the United States is 80% or more of that  
16 person's total business activity and (ii) for taxable  
17 years ending on or after December 31, 2008, to a person  
18 who would be a member of the same unitary business  
19 group but for the fact that the person is prohibited  
20 under Section 1501(a)(27) from being included in the  
21 unitary business group because he or she is ordinarily  
22 required to apportion business income under different  
23 subsections of Section 304, but not to exceed the  
24 addition modification required to be made for the same  
25 taxable year under Section 203(d)(2)(D-8) for  
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same person.

2 This subparagraph (S) is exempt from Section 250; and

3 (T) For taxable years ending on or after December  
4 31, 2011, in the case of a taxpayer who was required to  
5 add back any insurance premiums under Section  
6 203(d)(2)(D-9), such taxpayer may elect to subtract  
7 that part of a reimbursement received from the  
8 insurance company equal to the amount of the expense or  
9 loss (including expenses incurred by the insurance  
10 company) that would have been taken into account as a  
11 deduction for federal income tax purposes if the  
12 expense or loss had been uninsured. If a taxpayer makes  
13 the election provided for by this subparagraph (T), the  
14 insurer to which the premiums were paid must add back  
15 to income the amount subtracted by the taxpayer  
16 pursuant to this subparagraph (T). This subparagraph  
17 (T) is exempt from the provisions of Section 250.

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

19 (1) In general. Subject to the provisions of paragraph  
20 (2) and subsection (b)(3), for purposes of this Section and  
21 Section 803(e), a taxpayer's gross income, adjusted gross  
22 income, or taxable income for the taxable year shall mean  
23 the amount of gross income, adjusted gross income or  
24 taxable income properly reportable for federal income tax  
25 purposes for the taxable year under the provisions of the

1 Internal Revenue Code. Taxable income may be less than  
2 zero. However, for taxable years ending on or after  
3 December 31, 1986, net operating loss carryforwards from  
4 taxable years ending prior to December 31, 1986, may not  
5 exceed the sum of federal taxable income for the taxable  
6 year before net operating loss deduction, plus the excess  
7 of addition modifications over subtraction modifications  
8 for the taxable year. For taxable years ending prior to  
9 December 31, 1986, taxable income may never be an amount in  
10 excess of the net operating loss for the taxable year as  
11 defined in subsections (c) and (d) of Section 172 of the  
12 Internal Revenue Code, provided that when taxable income of  
13 a corporation (other than a Subchapter S corporation),  
14 trust, or estate is less than zero and addition  
15 modifications, other than those provided by subparagraph  
16 (E) of paragraph (2) of subsection (b) for corporations or  
17 subparagraph (E) of paragraph (2) of subsection (c) for  
18 trusts and estates, exceed subtraction modifications, an  
19 addition modification must be made under those  
20 subparagraphs for any other taxable year to which the  
21 taxable income less than zero (net operating loss) is  
22 applied under Section 172 of the Internal Revenue Code or  
23 under subparagraph (E) of paragraph (2) of this subsection  
24 (e) applied in conjunction with Section 172 of the Internal  
25 Revenue Code.

26 (2) Special rule. For purposes of paragraph (1) of this

1 subsection, the taxable income properly reportable for  
2 federal income tax purposes shall mean:

3 (A) Certain life insurance companies. In the case  
4 of a life insurance company subject to the tax imposed  
5 by Section 801 of the Internal Revenue Code, life  
6 insurance company taxable income, plus the amount of  
7 distribution from pre-1984 policyholder surplus  
8 accounts as calculated under Section 815a of the  
9 Internal Revenue Code;

10 (B) Certain other insurance companies. In the case  
11 of mutual insurance companies subject to the tax  
12 imposed by Section 831 of the Internal Revenue Code,  
13 insurance company taxable income;

14 (C) Regulated investment companies. In the case of  
15 a regulated investment company subject to the tax  
16 imposed by Section 852 of the Internal Revenue Code,  
17 investment company taxable income;

18 (D) Real estate investment trusts. In the case of a  
19 real estate investment trust subject to the tax imposed  
20 by Section 857 of the Internal Revenue Code, real  
21 estate investment trust taxable income;

22 (E) Consolidated corporations. In the case of a  
23 corporation which is a member of an affiliated group of  
24 corporations filing a consolidated income tax return  
25 for the taxable year for federal income tax purposes,  
26 taxable income determined as if such corporation had

1 filed a separate return for federal income tax purposes  
2 for the taxable year and each preceding taxable year  
3 for which it was a member of an affiliated group. For  
4 purposes of this subparagraph, the taxpayer's separate  
5 taxable income shall be determined as if the election  
6 provided by Section 243(b)(2) of the Internal Revenue  
7 Code had been in effect for all such years;

8 (F) Cooperatives. In the case of a cooperative  
9 corporation or association, the taxable income of such  
10 organization determined in accordance with the  
11 provisions of Section 1381 through 1388 of the Internal  
12 Revenue Code, but without regard to the prohibition  
13 against offsetting losses from patronage activities  
14 against income from nonpatronage activities; except  
15 that a cooperative corporation or association may make  
16 an election to follow its federal income tax treatment  
17 of patronage losses and nonpatronage losses. In the  
18 event such election is made, such losses shall be  
19 computed and carried over in a manner consistent with  
20 subsection (a) of Section 207 of this Act and  
21 apportioned by the apportionment factor reported by  
22 the cooperative on its Illinois income tax return filed  
23 for the taxable year in which the losses are incurred.  
24 The election shall be effective for all taxable years  
25 with original returns due on or after the date of the  
26 election. In addition, the cooperative may file an

1 amended return or returns, as allowed under this Act,  
2 to provide that the election shall be effective for  
3 losses incurred or carried forward for taxable years  
4 occurring prior to the date of the election. Once made,  
5 the election may only be revoked upon approval of the  
6 Director. The Department shall adopt rules setting  
7 forth requirements for documenting the elections and  
8 any resulting Illinois net loss and the standards to be  
9 used by the Director in evaluating requests to revoke  
10 elections. Public Act 96-932 is declaratory of  
11 existing law;

12 (G) Subchapter S corporations. In the case of: (i)  
13 a Subchapter S corporation for which there is in effect  
14 an election for the taxable year under Section 1362 of  
15 the Internal Revenue Code, the taxable income of such  
16 corporation determined in accordance with Section  
17 1363(b) of the Internal Revenue Code, except that  
18 taxable income shall take into account those items  
19 which are required by Section 1363(b)(1) of the  
20 Internal Revenue Code to be separately stated; and (ii)  
21 a Subchapter S corporation for which there is in effect  
22 a federal election to opt out of the provisions of the  
23 Subchapter S Revision Act of 1982 and have applied  
24 instead the prior federal Subchapter S rules as in  
25 effect on July 1, 1982, the taxable income of such  
26 corporation determined in accordance with the federal

1 Subchapter S rules as in effect on July 1, 1982; and  
2 (H) Partnerships. In the case of a partnership,  
3 taxable income determined in accordance with Section  
4 703 of the Internal Revenue Code, except that taxable  
5 income shall take into account those items which are  
6 required by Section 703(a)(1) to be separately stated  
7 but which would be taken into account by an individual  
8 in calculating his taxable income.

9 (3) Recapture of business expenses on disposition of  
10 asset or business. Notwithstanding any other law to the  
11 contrary, if in prior years income from an asset or  
12 business has been classified as business income and in a  
13 later year is demonstrated to be non-business income, then  
14 all expenses, without limitation, deducted in such later  
15 year and in the 2 immediately preceding taxable years  
16 related to that asset or business that generated the  
17 non-business income shall be added back and recaptured as  
18 business income in the year of the disposition of the asset  
19 or business. Such amount shall be apportioned to Illinois  
20 using the greater of the apportionment fraction computed  
21 for the business under Section 304 of this Act for the  
22 taxable year or the average of the apportionment fractions  
23 computed for the business under Section 304 of this Act for  
24 the taxable year and for the 2 immediately preceding  
25 taxable years.



1 (f) Valuation limitation amount.

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

5 (A) The sum of the pre-August 1, 1969 appreciation  
6 amounts (to the extent consisting of gain reportable  
7 under the provisions of Section 1245 or 1250 of the  
8 Internal Revenue Code) for all property in respect of  
9 which such gain was reported for the taxable year; plus

10 (B) The lesser of (i) the sum of the pre-August 1,  
11 1969 appreciation amounts (to the extent consisting of  
12 capital gain) for all property in respect of which such  
13 gain was reported for federal income tax purposes for  
14 the taxable year, or (ii) the net capital gain for the  
15 taxable year, reduced in either case by any amount of  
16 such gain included in the amount determined under  
17 subsection (a)(2)(F) or (c)(2)(H).

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

19 (A) If the fair market value of property referred  
20 to in paragraph (1) was readily ascertainable on August  
21 1, 1969, the pre-August 1, 1969 appreciation amount for  
22 such property is the lesser of (i) the excess of such  
23 fair market value over the taxpayer's basis (for  
24 determining gain) for such property on that date  
25 (determined under the Internal Revenue Code as in  
26 effect on that date), or (ii) the total gain realized

1 and reportable for federal income tax purposes in  
2 respect of the sale, exchange or other disposition of  
3 such property.

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

15 (C) The Department shall prescribe such  
16 regulations as may be necessary to carry out the  
17 purposes of this paragraph.

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

21 (h) Legislative intention. Except as expressly provided by  
22 this Section there shall be no modifications or limitations on  
23 the amounts of income, gain, loss or deduction taken into  
24 account in determining gross income, adjusted gross income or

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

6 (Source: P.A. 100-22, eff. 7-6-17; 100-905, eff. 8-17-18;  
7 revised 10-29-18.)

8 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

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

5 (1) Property factor.

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

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

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

25 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 competes or is scheduled to compete.

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

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

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



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

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

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

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

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

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

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

21 (3) Sales factor.

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

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

1 State if:

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

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

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

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

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

5 (ii) Place of utilization.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 termination points.

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

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

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

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

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

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

26 "Place of primary use" means the street address

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

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

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



1 declines with use in a known amount.

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

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

19 "Service address" means:

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

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

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

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

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

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

1 transaction is the processed data or information;

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

4 (c) Tangible personal property;

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

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

9 (f) Internet access service;

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

20 (h) "Ancillary services"; or

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

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

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

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

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

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

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

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

1 located in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

4 (B-8) Gross receipts from winnings under the Illinois  
5 Lottery Law from the assignment of a prize under Section  
6 13.1 of the Illinois Lottery Law are received in this  
7 State. This paragraph (B-8) applies only to taxable years  
8 ending on or after December 31, 2013.

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

12 (i) The income-producing activity is performed in  
13 this State; or

14 (ii) The income-producing activity is performed  
15 both within and without this State and a greater  
16 proportion of the income-producing activity is  
17 performed within this State than without this State,  
18 based on performance costs.

19 (C-5) For taxable years ending on or after December 31,  
20 2008, sales, other than sales governed by paragraphs (B),  
21 (B-1), (B-2), (B-5), and (B-7), are in this State if any of  
22 the following criteria are met:

23 (i) Sales from the sale or lease of real property  
24 are in this State if the property is located in this  
25 State.

26 (ii) Sales from the lease or rental of tangible

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

9 (iii) In the case of interest, net gains (but not  
10 less than zero) and other items of income from  
11 intangible personal property, the sale is in this State  
12 if:

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

1 the records of the dealer, is in this State; or

2 (b) in all other cases, if the  
3 income-producing activity of the taxpayer is  
4 performed in this State or, if the  
5 income-producing activity of the taxpayer is  
6 performed both within and without this State, if a  
7 greater proportion of the income-producing  
8 activity of the taxpayer is performed within this  
9 State than in any other state, based on performance  
10 costs.

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

1 billed. If the taxpayer is not taxable in the state in  
2 which the services are received, the sale must be  
3 excluded from both the numerator and the denominator of  
4 the sales factor. The Department shall adopt rules  
5 prescribing where specific types of service are  
6 received, including, but not limited to, publishing,  
7 and utility service.

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

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

1 the taxpayer for that tax year to the extent such refund is  
2 the result of applying the provisions of paragraph (B-1) or  
3 (B-2) retroactively. In the case of a unitary business  
4 group, such election shall apply to all members of such  
5 group for every tax year such group is in existence, but  
6 shall not apply to any taxpayer for any period during which  
7 that taxpayer is not a member of such group.

8 (b) Insurance companies.

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

24 (2) Reinsurance. If the principal source of premiums  
25 written by an insurance company consists of premiums for  
26 reinsurance accepted by it, the business income of such



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

1 permission of the Department, which shall not be  
2 unreasonably withheld.

3 (c) Financial organizations.

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

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

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

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

22 (D) Interest charged to customers at places of  
23 business maintained within this State for carrying  
24 debit balances of margin accounts, without deduction  
25 of any costs incurred in carrying such accounts; and

26 (E) Any other gross income resulting from the

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

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

14 (A) Adjusted Income. The adjusted income of an  
15 international banking facility is its income reduced  
16 by the amount of the floor amount.

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

21 (i) The numerator shall be:

22 The average aggregate, determined on a  
23 quarterly basis, of the financial organization's  
24 loans to banks in foreign countries, to foreign  
25 domiciled borrowers (except where secured  
26 primarily by real estate) and to foreign

1 governments and other foreign official  
2 institutions, as reported for its branches,  
3 agencies and offices within the state on its  
4 "Consolidated Report of Condition", Schedule A,  
5 Lines 2.c., 5.b., and 7.a., which was filed with  
6 the Federal Deposit Insurance Corporation and  
7 other regulatory authorities, for the year 1980,  
8 minus

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

20 (ii) the denominator shall be the average  
21 aggregate, determined on a quarterly basis, of the  
22 international banking facility's loans to banks in  
23 foreign countries, to foreign domiciled borrowers  
24 (except where secured primarily by real estate)  
25 and to foreign governments and other foreign  
26 official institutions, which were recorded in its

1 financial accounts for the current taxable year.

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

19 (3) For taxable years ending on or after December 31,  
20 2008, the business income of a financial organization shall  
21 be apportioned to this State by multiplying such income by  
22 a fraction, the numerator of which is its gross receipts  
23 from sources in this State or otherwise attributable to  
24 this State's marketplace and the denominator of which is  
25 its gross receipts everywhere during the taxable year.  
26 "Gross receipts" for purposes of this subparagraph (3)

1 means gross income, including net taxable gain on  
2 disposition of assets, including securities and money  
3 market instruments, when derived from transactions and  
4 activities in the regular course of the financial  
5 organization's trade or business. The following examples  
6 are illustrative:

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

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

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

26 (iv) Interest income, commissions, fees, gains on

1 disposition, and other receipts from commercial loans  
2 and installment obligations that are not secured by  
3 real or tangible personal property are from sources in  
4 this State if the proceeds of the loan are to be  
5 applied in this State. If it cannot be determined where  
6 the funds are to be applied, the income and receipts  
7 are from sources in this State if the office of the  
8 borrower from which the loan was negotiated in the  
9 regular course of business is located in this State. If  
10 the location of this office cannot be determined, the  
11 income and receipts shall be excluded from the  
12 numerator and denominator of the sales factor.

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

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

23 (vii) Receipts from the issuance of travelers  
24 checks and money orders are from sources in this State  
25 if the checks and money orders are issued from a  
26 location within this State.

1 (viii) Receipts from investment assets and  
2 activities and trading assets and activities are  
3 included in the receipts factor as follows:

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

21 (A) The receipts factor shall include the  
22 amount by which interest from federal funds  
23 sold and securities purchased under resale  
24 agreements exceeds interest expense on federal  
25 funds purchased and securities sold under  
26 repurchase agreements.



1 (B) The receipts factor shall include the  
2 amount by which interest, dividends, gains and  
3 other income from trading assets and  
4 activities, including but not limited to  
5 assets and activities in the matched book, in  
6 the arbitrage book, and foreign currency  
7 transactions, exceed amounts paid in lieu of  
8 interest, amounts paid in lieu of dividends,  
9 and losses from such assets and activities.

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

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

1 of which is the gross income from all such  
2 assets and activities.

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

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

1 amount described in subparagraph (B) of  
2 paragraph (1) of this subsection by a fraction,  
3 the numerator of which is the gross income from  
4 such trading assets and activities which are  
5 properly assigned to a fixed place of business  
6 of the taxpayer within this State and the  
7 denominator of which is the gross income from  
8 all such assets and activities.

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

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

23 (ii) such assignment on its records is  
24 based upon substantive contacts of the  
25 asset or activity to such fixed place of  
26 business; and

1 (iii) the taxpayer uses such records  
2 reflecting assignment of such assets or  
3 activities for the filing of all state and  
4 local tax returns for which an assignment  
5 of such assets or activities to a fixed  
6 place of business is required.

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

1           subparagraph (E), it shall be presumed,  
2           subject to rebuttal, that taxpayer's  
3           commercial domicile is in the state of the  
4           United States or the District of Columbia to  
5           which the greatest number of employees are  
6           regularly connected with the management of the  
7           investment or trading income or out of which  
8           they are working, irrespective of where the  
9           services of such employees are performed, as of  
10          the last day of the taxable year.

11           (4) (Blank).

12           (5) (Blank).

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

23           (1) Receipts attributable to transactions executed on  
24          a physical trading floor if that physical trading floor is  
25          located in this State.

26           (2) Receipts attributable to all other matching,

1 execution, or clearing transactions, including without  
2 limitation receipts from the provision of matching,  
3 execution, or clearing services to another entity,  
4 multiplied by (i) for taxable years ending on or after  
5 December 31, 2012 but before December 31, 2013, 63.77%; and  
6 (ii) for taxable years ending on or after December 31,  
7 2013, 27.54%.

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

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

1 clearing of transactions conducted by an entity described in  
2 subparagraph (i), (ii), or (iii) of this paragraph.

3 In no event shall the Illinois apportionment percentage  
4 computed in accordance with this subsection (c-1) for any  
5 taxpayer for any tax year be less than the Illinois  
6 apportionment percentage computed under this subsection (c-1)  
7 for that taxpayer for the first full tax year ending on or  
8 after December 31, 2013 for which this subsection (c-1) applied  
9 to the taxpayer.

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

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

1 person's

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

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

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

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



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

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

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

23 (4) For taxable years ending on or after December 31,  
24 2008, business income derived from furnishing airline  
25 transportation services shall be apportioned to this State  
26 by multiplying such income by a fraction, the numerator of

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

12          (e) Combined apportionment. Except as provided in  
13 subsection (e-5), where ~~where~~ 2 or more persons are engaged in  
14 a unitary business as described in subsection (a)(27) of  
15 Section 1501, a part of which is conducted in this State by one  
16 or more members of the group, the business income attributable  
17 to this State by any such member or members shall be  
18 apportioned by means of the combined apportionment method.

19          (e-5) Water's-edge election.

20           (1) Taxpayer members of a unitary business group that  
21 meet the requirements paragraph (2) of this subsection  
22 (e-5) may elect to determine each of their apportioned  
23 shares of the net business income or loss of the unitary  
24 business group pursuant to a water's-edge election. Under a  
25 water's-edge election, taxpayer members shall take into  
26 account all or a portion of the income and apportionment

1 factors of only the following members otherwise included in  
2 the unitary business group, as described below:

3 (A) the entire income and apportionment factors of  
4 any member incorporated in the United States or formed  
5 under the laws of any state, the District of Columbia,  
6 or any territory or possession of the United States;

7 (B) the entire income and apportionment factors of  
8 any member, regardless of the place incorporated or  
9 formed, if the average of its property, payroll, and  
10 sales factors within the United States is 20% or more;

11 (C) the entire income and apportionment factors of  
12 any member that is: (i) a domestic international sales  
13 corporation, as described in Sections 991 to 994 of the  
14 Internal Revenue Code; (ii) a foreign sales  
15 corporation, as described in Sections 921 to 927 of the  
16 Internal Revenue Code; or (iii) an export trade  
17 corporation, as described in Sections 970 to 971 of the  
18 Internal Revenue Code;

19 (D) the portion of the income of any member not  
20 described in subparagraph (A), (B), or (C) that is  
21 derived from or attributable to sources within the  
22 United States, as determined under the Internal  
23 Revenue Code without regard to federal treaties, and  
24 the member's apportionment factors related thereto;

25 (E) any member that is a controlled foreign  
26 corporation, as defined in Internal Revenue Code

1 Section 957, to the extent of the income of that member  
2 that is defined in Section 952 of Subpart F of the  
3 Internal Revenue Code ("Subpart F income"), not  
4 excluding lower-tier subsidiaries' distributions of  
5 such income which were previously taxed, determined  
6 without regard to federal treaties, and the  
7 apportionment factors related to that income; any item  
8 of income received by a controlled foreign corporation  
9 shall be excluded if that income was subject to an  
10 effective rate of income tax imposed by a foreign  
11 country greater than 90% of the maximum rate of tax  
12 specified in Internal Revenue Code Section 11;

13 (F) any member that earns more than 20% of its  
14 income, directly or indirectly, from intangible  
15 property or service related activities that are  
16 deductible against the business income of other  
17 members of the unitary business group, to the extent of  
18 that income and the apportionment factors related  
19 thereto; and

20 (G) the entire income and apportionment factors of  
21 any member that is doing business in a tax haven; as  
22 used in this subparagraph (G), "doing business in a tax  
23 haven" means that the member is engaged in activity  
24 sufficient for that tax haven jurisdiction to impose a  
25 tax under United States constitutional standards; as  
26 used in this subparagraph (G), tax havens include

1 Andorra, Anguilla, Antigua and Barbuda, Aruba, the  
2 Bahamas, Bahrain, Barbados, Belize, Bermuda, Bonaire,  
3 British Virgin Islands, Cayman Islands, Cook Islands,  
4 Curaçao, Cyprus, Dominica, Gibraltar, Grenada,  
5 Guernsey-Sark-Alderney, Ireland, Isle of Man, Jersey,  
6 Liberia, Liechtenstein, Luxembourg, Malta, Marshall  
7 Islands, Mauritius, Monaco, Montserrat, Nauru,  
8 Netherlands, Niue, Panama, Saba, Samoa, San Marino,  
9 Seychelles, Singapore, Sint Eustatius, Sint Maarten,  
10 St. Kitts and Nevis, St. Lucia, St. Vincent and the  
11 Grenadines, Switzerland, Turks and Caicos Islands,  
12 U.S. Virgin Islands, and Vanuatu; the Department shall  
13 report biennially to the General Assembly with an  
14 update of countries that it considers a tax haven.

15 (2) Initiation and withdrawal of election.

16 (A) A water's-edge election is effective only if  
17 made on a timely-filed, original return for a tax year  
18 by every member of the unitary business group subject  
19 to tax under this Act. The Department shall develop  
20 rules and regulations governing the impact, if any, on  
21 the scope or application of a water's-edge election,  
22 including termination or deemed election, resulting  
23 from a change in the composition of the unitary  
24 business group, the taxpayer members, or any other  
25 similar change.

26 (B) An election under this subsection (e-5) shall

1 constitute consent to the reasonable production of  
2 documents and taking of depositions in accordance with  
3 Code of Civil Procedure.

4 (C) In the discretion of the Department, a  
5 water's-edge election may be disregarded in part or in  
6 whole, and the income and apportionment factors of any  
7 member of the taxpayer's unitary business group may be  
8 included in the combined report without regard to the  
9 provisions of this subsection, if any member of the  
10 unitary business group fails to comply with any  
11 provision of this Act or if a person was otherwise not  
12 included in the water's-edge unitary business group  
13 with the substantial objective of avoiding State  
14 income tax.

15 (D) A water's-edge election is binding for and  
16 applicable to the tax year in which it is made and all  
17 tax years thereafter for a period of 10 years. It may  
18 be withdrawn or reinstated after withdrawal prior to  
19 the expiration of the 10-year period only upon written  
20 request for reasonable cause based on extraordinary  
21 hardship due to unforeseen changes in State tax  
22 statutes, law, or policy, and only with the written  
23 permission of the Department. If the Department grants  
24 a withdrawal of an election, it shall impose reasonable  
25 conditions as necessary to prevent the evasion of tax  
26 or to clearly reflect income for the election period

1           prior to or after the withdrawal. Upon the expiration  
2           of the 10-year period, a taxpayer may withdraw from the  
3           water's edge election. Such withdrawal must be made in  
4           writing within one year of the expiration of the  
5           election and is binding for a period of 10 years,  
6           subject to the same conditions as applied to the  
7           original election. If no withdrawal is properly made,  
8           the water's edge election shall be in place for an  
9           additional 10-year period, subject to the same  
10          conditions as applied to the original election.

11           (f) Alternative allocation. If the allocation and  
12           apportionment provisions of subsections (a) through (e) and of  
13           subsection (h) do not, for taxable years ending before December  
14           31, 2008, fairly represent the extent of a person's business  
15           activity in this State, or, for taxable years ending on or  
16           after December 31, 2008, fairly represent the market for the  
17           person's goods, services, or other sources of business income,  
18           the person may petition for, or the Director may, without a  
19           petition, permit or require, in respect of all or any part of  
20           the person's business activity, if reasonable:

21                   (1) Separate accounting;

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

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

26                   (4) The employment of any other method to effectuate an

1 equitable allocation and apportionment of the person's  
2 business income.

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

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

8 (1) for tax years ending on or after December 31, 1998  
9 and before December 31, 1999, 16 2/3% of the property  
10 factor plus 16 2/3% of the payroll factor plus 66 2/3% of  
11 the sales factor;

12 (2) for tax years ending on or after December 31, 1999  
13 and before December 31, 2000, 8 1/3% of the property factor  
14 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales  
15 factor;

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

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

25 (Source: P.A. 99-642, eff. 7-28-16; 100-201, eff. 8-18-17.)



1 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

2 Sec. 1501. Definitions.

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

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

16 (1.5) Captive real estate investment trust:

17 (A) The term "captive real estate investment  
18 trust" means a corporation, trust, or association:

19 (i) that is considered a real estate  
20 investment trust for the taxable year under  
21 Section 856 of the Internal Revenue Code;

22 (ii) the certificates of beneficial interest  
23 or shares of which are not regularly traded on an  
24 established securities market; and

25 (iii) of which more than 50% of the voting  
26 power or value of the beneficial interest or

1 shares, at any time during the last half of the  
2 taxable year, is owned or controlled, directly,  
3 indirectly, or constructively, by a single  
4 corporation.

5 (B) The term "captive real estate investment  
6 trust" does not include:

7 (i) a real estate investment trust of which  
8 more than 50% of the voting power or value of the  
9 beneficial interest or shares is owned or  
10 controlled, directly, indirectly, or  
11 constructively, by:

12 (a) a real estate investment trust, other  
13 than a captive real estate investment trust;

14 (b) a person who is exempt from taxation  
15 under Section 501 of the Internal Revenue Code,  
16 and who is not required to treat income  
17 received from the real estate investment trust  
18 as unrelated business taxable income under  
19 Section 512 of the Internal Revenue Code;

20 (c) a listed Australian property trust, if  
21 no more than 50% of the voting power or value  
22 of the beneficial interest or shares of that  
23 trust, at any time during the last half of the  
24 taxable year, is owned or controlled, directly  
25 or indirectly, by a single person;

26 (d) an entity organized as a trust,

1 provided a listed Australian property trust  
2 described in subparagraph (c) owns or  
3 controls, directly or indirectly, or  
4 constructively, 75% or more of the voting power  
5 or value of the beneficial interests or shares  
6 of such entity; or

7 (e) an entity that is organized outside of  
8 the laws of the United States and that  
9 satisfies all of the following criteria:

10 (1) at least 75% of the entity's total  
11 asset value at the close of its taxable  
12 year is represented by real estate assets  
13 (as defined in Section 856(c)(5)(B) of the  
14 Internal Revenue Code, thereby including  
15 shares or certificates of beneficial  
16 interest in any real estate investment  
17 trust), cash and cash equivalents, and  
18 U.S. Government securities;

19 (2) the entity is not subject to tax on  
20 amounts that are distributed to its  
21 beneficial owners or is exempt from  
22 entity-level taxation;

23 (3) the entity distributes at least  
24 85% of its taxable income (as computed in  
25 the jurisdiction in which it is organized)  
26 to the holders of its shares or

1 certificates of beneficial interest on an  
2 annual basis;

3 (4) either (i) the shares or  
4 beneficial interests of the entity are  
5 regularly traded on an established  
6 securities market or (ii) not more than 10%  
7 of the voting power or value in the entity  
8 is held, directly, indirectly, or  
9 constructively, by a single entity or  
10 individual; and

11 (5) the entity is organized in a  
12 country that has entered into a tax treaty  
13 with the United States; or

14 (ii) during its first taxable year for which it  
15 elects to be treated as a real estate investment  
16 trust under Section 856(c)(1) of the Internal  
17 Revenue Code, a real estate investment trust the  
18 certificates of beneficial interest or shares of  
19 which are not regularly traded on an established  
20 securities market, but only if the certificates of  
21 beneficial interest or shares of the real estate  
22 investment trust are regularly traded on an  
23 established securities market prior to the earlier  
24 of the due date (including extensions) for filing  
25 its return under this Act for that first taxable  
26 year or the date it actually files that return.

1 (C) For the purposes of this subsection (1.5), the  
2 constructive ownership rules prescribed under Section  
3 318(a) of the Internal Revenue Code, as modified by  
4 Section 856(d)(5) of the Internal Revenue Code, apply  
5 in determining the ownership of stock, assets, or net  
6 profits of any person.

7 (D) For the purposes of this item (1.5), for  
8 taxable years ending on or after August 16, 2007, the  
9 voting power or value of the beneficial interest or  
10 shares of a real estate investment trust does not  
11 include any voting power or value of beneficial  
12 interest or shares in a real estate investment trust  
13 held directly or indirectly in a segregated asset  
14 account by a life insurance company (as described in  
15 Section 817 of the Internal Revenue Code) to the extent  
16 such voting power or value is for the benefit of  
17 entities or persons who are either immune from taxation  
18 or exempt from taxation under subtitle A of the  
19 Internal Revenue Code.

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

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

26 (4) Corporation. The term "corporation" includes

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

6        (5) Department. The term "Department" means the  
7        Department of Revenue of this State.

8        (6) Director. The term "Director" means the Director of  
9        Revenue of this State.

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

13       (8) Financial organization.

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

1 where interests in any person must be disposed of  
2 within certain required time limits under the Bank  
3 Holding Company Act of 1956.

4 (B) For purposes of subparagraph (A) of this  
5 paragraph, the term "bank" includes (i) any entity that  
6 is regulated by the Comptroller of the Currency under  
7 the National Bank Act, or by the Federal Reserve Board,  
8 or by the Federal Deposit Insurance Corporation and  
9 (ii) any federally or State chartered bank operating as  
10 a credit card bank.

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

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

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

1 Retail Installment Sales Act;

2 (b) an installment, charge, credit, or  
3 similar contract or agreement arising from the  
4 sale of tangible personal property or services  
5 in a transaction involving a deferred payment  
6 price payable in one or more installments  
7 subsequent to the sale; or

8 (c) the outstanding balance of a contract  
9 or agreement described in provisions (a) or (b)  
10 of this item (i).

11 A customer receivable need not provide for  
12 payment of interest on deferred payments. A sales  
13 finance company may purchase a customer receivable  
14 from, or make a loan secured by a customer  
15 receivable to, the seller in the original  
16 transaction or to a person who purchased the  
17 customer receivable directly or indirectly from  
18 that seller.

19 (ii) A corporation meeting each of the  
20 following criteria:

21 (a) the corporation must be a member of an  
22 "affiliated group" within the meaning of  
23 Section 1504(a) of the Internal Revenue Code,  
24 determined without regard to Section 1504(b)  
25 of the Internal Revenue Code;

26 (b) more than 50% of the gross income of



1 the corporation for the taxable year must be  
2 interest income derived from qualifying loans.  
3 A "qualifying loan" is a loan made to a member  
4 of the corporation's affiliated group that  
5 originates customer receivables (within the  
6 meaning of item (i)) or to whom customer  
7 receivables originated by a member of the  
8 affiliated group have been transferred, to the  
9 extent the average outstanding balance of  
10 loans from that corporation to members of its  
11 affiliated group during the taxable year do not  
12 exceed the limitation amount for that  
13 corporation. The "limitation amount" for a  
14 corporation is the average outstanding  
15 balances during the taxable year of customer  
16 receivables (within the meaning of item (i))  
17 originated by all members of the affiliated  
18 group. If the average outstanding balances of  
19 the loans made by a corporation to members of  
20 its affiliated group exceed the limitation  
21 amount, the interest income of that  
22 corporation from qualifying loans shall be  
23 equal to its interest income from loans to  
24 members of its affiliated groups times a  
25 fraction equal to the limitation amount  
26 divided by the average outstanding balances of

1 the loans made by that corporation to members  
2 of its affiliated group;

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

12 (d) more than 50% of all interest-bearing  
13 obligations of the affiliated group payable to  
14 persons outside the group determined in  
15 accordance with generally accepted accounting  
16 principles must be obligations of the  
17 corporation.

18 This amendatory Act of the 91st General Assembly is  
19 declaratory of existing law.

20 (D) Subparagraphs (B) and (C) of this paragraph are  
21 declaratory of existing law and apply retroactively,  
22 for all tax years beginning on or before December 31,  
23 1996, to all original returns, to all amended returns  
24 filed no later than 30 days after the effective date of  
25 this amendatory Act of 1996, and to all notices issued  
26 on or before the effective date of this amendatory Act

1 of 1996 under subsection (a) of Section 903, subsection  
2 (a) of Section 904, subsection (e) of Section 909, or  
3 Section 912. A taxpayer that is a "financial  
4 organization" that engages in any transaction with an  
5 affiliate shall be a "financial organization" for all  
6 purposes of this Act.

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

1 of Section 909 more than 30 days after the effective  
2 date of this amendatory Act of 1996.

3 (F) Finance Leases. For purposes of this  
4 subsection, a finance lease shall be treated as a loan  
5 or other extension of credit, rather than as a lease,  
6 regardless of how the transaction is characterized for  
7 any other purpose, including the purposes of any  
8 regulatory agency to which the lessor is subject. A  
9 finance lease is any transaction in the form of a lease  
10 in which the lessee is treated as the owner of the  
11 leased asset entitled to any deduction for  
12 depreciation allowed under Section 167 of the Internal  
13 Revenue Code.

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

17 (9.5) Fixed place of business. The term "fixed place of  
18 business" has the same meaning as that term is given in  
19 Section 864 of the Internal Revenue Code and the related  
20 Treasury regulations.

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

25 (11) Internal Revenue Code. The term "Internal Revenue  
26 Code" means the United States Internal Revenue Code of 1954

1 or any successor law or laws relating to federal income  
2 taxes in effect for the taxable year.

3 (11.5) Investment partnership.

4 (A) The term "investment partnership" means any  
5 entity that is treated as a partnership for federal  
6 income tax purposes that meets the following  
7 requirements:

8 (i) no less than 90% of the partnership's cost  
9 of its total assets consists of qualifying  
10 investment securities, deposits at banks or other  
11 financial institutions, and office space and  
12 equipment reasonably necessary to carry on its  
13 activities as an investment partnership;

14 (ii) no less than 90% of its gross income  
15 consists of interest, dividends, and gains from  
16 the sale or exchange of qualifying investment  
17 securities; and

18 (iii) the partnership is not a dealer in  
19 qualifying investment securities.

20 (B) For purposes of this paragraph (11.5), the term  
21 "qualifying investment securities" includes all of the  
22 following:

23 (i) common stock, including preferred or debt  
24 securities convertible into common stock, and  
25 preferred stock;

26 (ii) bonds, debentures, and other debt

1 securities;

2 (iii) foreign and domestic currency deposits  
3 secured by federal, state, or local governmental  
4 agencies;

5 (iv) mortgage or asset-backed securities  
6 secured by federal, state, or local governmental  
7 agencies;

8 (v) repurchase agreements and loan  
9 participations;

10 (vi) foreign currency exchange contracts and  
11 forward and futures contracts on foreign  
12 currencies;

13 (vii) stock and bond index securities and  
14 futures contracts and other similar financial  
15 securities and futures contracts on those  
16 securities;

17 (viii) options for the purchase or sale of any  
18 of the securities, currencies, contracts, or  
19 financial instruments described in items (i) to  
20 (vii), inclusive;

21 (ix) regulated futures contracts;

22 (x) commodities (not described in Section  
23 1221(a)(1) of the Internal Revenue Code) or  
24 futures, forwards, and options with respect to  
25 such commodities, provided, however, that any item  
26 of a physical commodity to which title is actually

1           acquired in the partnership's capacity as a dealer  
2           in such commodity shall not be a qualifying  
3           investment security;

4                   (xi) derivatives; and

5                   (xii) a partnership interest in another  
6           partnership that is an investment partnership.

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

11                   (A) arithmetic errors or incorrect computations on  
12          the return or supporting schedules;

13                   (B) entries on the wrong lines;

14                   (C) omission of required supporting forms or  
15          schedules or the omission of the information in whole  
16          or in part called for thereon; and

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

21          (13) Nonbusiness income. The term "nonbusiness income"  
22          means all income other than business income or  
23          compensation.

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

26          (15) Paid, incurred and accrued. The terms "paid",

1 "incurred" and "accrued" shall be construed according to  
2 the method of accounting upon the basis of which the  
3 person's base income is computed under this Act.

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

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

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

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



1 Section 1501(a)(20)(A)(ii) residence commences with the  
2 establishment of domicile in this State and ceases with the  
3 establishment of domicile in another State.

4 (18) Person. The term "person" shall be construed to  
5 mean and include an individual, a trust, estate,  
6 partnership, association, firm, company, corporation,  
7 limited liability company, or fiduciary. For purposes of  
8 Section 1301 and 1302 of this Act, a "person" means (i) an  
9 individual, (ii) a corporation, (iii) an officer, agent, or  
10 employee of a corporation, (iv) a member, agent or employee  
11 of a partnership, or (v) a member, manager, employee,  
12 officer, director, or agent of a limited liability company  
13 who in such capacity commits an offense specified in  
14 Section 1301 and 1302.

15 (18A) Records. The term "records" includes all data  
16 maintained by the taxpayer, whether on paper, microfilm,  
17 microfiche, or any type of machine-sensible data  
18 compilation.

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

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

22 (A) an individual (i) who is in this State for  
23 other than a temporary or transitory purpose during the  
24 taxable year; or (ii) who is domiciled in this State  
25 but is absent from the State for a temporary or  
26 transitory purpose during the taxable year;

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

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

5 (D) An irrevocable trust, the grantor of which was  
6 domiciled in this State at the time such trust became  
7 irrevocable. For purpose of this subparagraph, a trust  
8 shall be considered irrevocable to the extent that the  
9 grantor is not treated as the owner thereof under  
10 Sections 671 through 678 of the Internal Revenue Code.

11 (21) Sales. The term "sales" means all gross receipts  
12 of the taxpayer not allocated under Sections 301, 302 and  
13 303.

14 (22) State. The term "state" when applied to a  
15 jurisdiction other than this State means any state of the  
16 United States, the District of Columbia, the Commonwealth  
17 of Puerto Rico, any Territory or Possession of the United  
18 States, and any foreign country, or any political  
19 subdivision of any of the foregoing. For purposes of the  
20 foreign tax credit under Section 601, the term "state"  
21 means any state of the United States, the District of  
22 Columbia, the Commonwealth of Puerto Rico, and any  
23 territory or possession of the United States, or any  
24 political subdivision of any of the foregoing, effective  
25 for tax years ending on or after December 31, 1989.

26 (23) Taxable year. The term "taxable year" means the

1 calendar year, or the fiscal year ending during such  
2 calendar year, upon the basis of which the base income is  
3 computed under this Act. "Taxable year" means, in the case  
4 of a return made for a fractional part of a year under the  
5 provisions of this Act, the period for which such return is  
6 made.

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

9 (25) International banking facility. The term  
10 international banking facility shall have the same meaning  
11 as is set forth in the Illinois Banking Act or as is set  
12 forth in the laws of the United States or regulations of  
13 the Board of Governors of the Federal Reserve System.

14 (26) Income Tax Return Preparer.

15 (A) The term "income tax return preparer" means any  
16 person who prepares for compensation, or who employs  
17 one or more persons to prepare for compensation, any  
18 return of tax imposed by this Act or any claim for  
19 refund of tax imposed by this Act. The preparation of a  
20 substantial portion of a return or claim for refund  
21 shall be treated as the preparation of that return or  
22 claim for refund.

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

25 (i) furnish typing, reproducing, or other  
26 mechanical assistance;

1 (ii) prepare returns or claims for refunds for  
2 the employer by whom he or she is regularly and  
3 continuously employed;

4 (iii) prepare as a fiduciary returns or claims  
5 for refunds for any person; or

6 (iv) prepare claims for refunds for a taxpayer  
7 in response to any notice of deficiency issued to  
8 that taxpayer or in response to any waiver of  
9 restriction after the commencement of an audit of  
10 that taxpayer or of another taxpayer if a  
11 determination in the audit of the other taxpayer  
12 directly or indirectly affects the tax liability  
13 of the taxpayer whose claims he or she is  
14 preparing.

15 (27) Unitary business group.

16 (A) The term "unitary business group" means a group  
17 of persons related through common ownership whose  
18 business activities are integrated with, dependent  
19 upon and contribute to each other. ~~The group will not~~  
20 ~~include those members whose business activity outside~~  
21 ~~the United States is 80% or more of any such member's~~  
22 ~~total business activity; for purposes of this~~  
23 ~~paragraph and clause (a)(3)(B)(ii) of Section 304,~~  
24 ~~business activity within the United States shall be~~  
25 ~~measured by means of the factors ordinarily applicable~~  
26 ~~under subsections (a), (b), (c), (d), or (h) of Section~~

1 ~~304 except that, in the case of members ordinarily~~  
2 ~~required to apportion business income by means of the 3~~  
3 ~~factor formula of property, payroll and sales~~  
4 ~~specified in subsection (a) of Section 304, including~~  
5 ~~the formula as weighted in subsection (h) of Section~~  
6 ~~304, such members shall not use the sales factor in the~~  
7 ~~computation and the results of the property and payroll~~  
8 ~~factor computations of subsection (a) of Section 304~~  
9 ~~shall be divided by 2 (by one if either the property or~~  
10 ~~payroll factor has a denominator of zero). The~~  
11 ~~computation required by the preceding sentence shall,~~  
12 ~~in each case, involve the division of the member's~~  
13 ~~property, payroll, or revenue miles in the United~~  
14 ~~States, insurance premiums on property or risk in the~~  
15 ~~United States, or financial organization business~~  
16 ~~income from sources within the United States, as the~~  
17 ~~case may be, by the respective worldwide figures for~~  
18 ~~such items.~~ Common ownership in the case of  
19 corporations is the direct or indirect control or  
20 ownership of more than 50% of the outstanding voting  
21 stock of the persons carrying on unitary business  
22 activity. Unitary business activity can ordinarily be  
23 illustrated where the activities of the members are:  
24 (1) in the same general line (such as manufacturing,  
25 wholesaling, retailing of tangible personal property,  
26 insurance, transportation or finance); or (2) are

1 steps in a vertically structured enterprise or process  
2 (such as the steps involved in the production of  
3 natural resources, which might include exploration,  
4 mining, refining, and marketing); and, in either  
5 instance, the members are functionally integrated  
6 through the exercise of strong centralized management  
7 (where, for example, authority over such matters as  
8 purchasing, financing, tax compliance, product line,  
9 personnel, marketing and capital investment is not  
10 left to each member).

11 (B) In no event, for taxable years ending prior to  
12 December 31, 2017, shall any unitary business group  
13 include members which are ordinarily required to  
14 apportion business income under different subsections  
15 of Section 304 except that for tax years ending on or  
16 after December 31, 1987 this prohibition shall not  
17 apply to a holding company that would otherwise be a  
18 member of a unitary business group with taxpayers that  
19 apportion business income under any of subsections  
20 (b), (c), (c-1), or (d) of Section 304. If a unitary  
21 business group would, but for the preceding sentence,  
22 include members that are ordinarily required to  
23 apportion business income under different subsections  
24 of Section 304, then for each subsection of Section 304  
25 for which there are two or more members, there shall be  
26 a separate unitary business group composed of such

1 members. For purposes of the preceding two sentences, a  
2 member is "ordinarily required to apportion business  
3 income" under a particular subsection of Section 304 if  
4 it would be required to use the apportionment method  
5 prescribed by such subsection except for the fact that  
6 it derives business income solely from Illinois. As  
7 used in this paragraph, for taxable years ending before  
8 December 31, 2017, the phrase "United States" means  
9 only the 50 states and the District of Columbia, but  
10 does not include any territory or possession of the  
11 United States or any area over which the United States  
12 has asserted jurisdiction or claimed exclusive rights  
13 with respect to the exploration for or exploitation of  
14 natural resources. For taxable years ending on or after  
15 December 31, 2017, the phrase "United States", as used  
16 in this paragraph, means only the 50 states, the  
17 District of Columbia, and any area over which the  
18 United States has asserted jurisdiction or claimed  
19 exclusive rights with respect to the exploration for or  
20 exploitation of natural resources, but does not  
21 include any territory or possession of the United  
22 States.

23 (C) Holding companies.

24 (i) For purposes of this subparagraph, a  
25 "holding company" is a corporation (other than a  
26 corporation that is a financial organization under

1 paragraph (8) of this subsection (a) of Section  
2 1501 because it is a bank holding company under the  
3 provisions of the Bank Holding Company Act of 1956  
4 (12 U.S.C. 1841, et seq.) or because it is owned by  
5 a bank or a bank holding company) that owns a  
6 controlling interest in one or more other  
7 taxpayers ("controlled taxpayers"); that, during  
8 the period that includes the taxable year and the 2  
9 immediately preceding taxable years or, if the  
10 corporation was formed during the current or  
11 immediately preceding taxable year, the taxable  
12 years in which the corporation has been in  
13 existence, derived substantially all its gross  
14 income from dividends, interest, rents, royalties,  
15 fees or other charges received from controlled  
16 taxpayers for the provision of services, and gains  
17 on the sale or other disposition of interests in  
18 controlled taxpayers or in property leased or  
19 licensed to controlled taxpayers or used by the  
20 taxpayer in providing services to controlled  
21 taxpayers; and that incurs no substantial expenses  
22 other than expenses (including interest and other  
23 costs of borrowing) incurred in connection with  
24 the acquisition and holding of interests in  
25 controlled taxpayers and in the provision of  
26 services to controlled taxpayers or in the leasing



1 or licensing of property to controlled taxpayers.

2 (ii) The income of a holding company which is a  
3 member of more than one unitary business group  
4 shall be included in each unitary business group of  
5 which it is a member on a pro rata basis, by  
6 including in each unitary business group that  
7 portion of the base income of the holding company  
8 that bears the same proportion to the total base  
9 income of the holding company as the gross receipts  
10 of the unitary business group bears to the combined  
11 gross receipts of all unitary business groups (in  
12 both cases without regard to the holding company)  
13 or on any other reasonable basis, consistently  
14 applied.

15 (iii) A holding company shall apportion its  
16 business income under the subsection of Section  
17 304 used by the other members of its unitary  
18 business group. The apportionment factors of a  
19 holding company which would be a member of more  
20 than one unitary business group shall be included  
21 with the apportionment factors of each unitary  
22 business group of which it is a member on a pro  
23 rata basis using the same method used in clause  
24 (ii).

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

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

26 (E) If the unitary business group members'

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

15          (28) Subchapter S corporation. The term "Subchapter S  
16          corporation" means a corporation for which there is in  
17          effect an election under Section 1362 of the Internal  
18          Revenue Code, or for which there is a federal election to  
19          opt out of the provisions of the Subchapter S Revision Act  
20          of 1982 and have applied instead the prior federal  
21          Subchapter S rules as in effect on July 1, 1982.

22          (30) Foreign person. The term "foreign person" means  
23          any person who is a nonresident alien individual and any  
24          nonindividual entity, regardless of where created or  
25          organized, whose business activity outside the United  
26          States is 80% or more of the entity's total business

1 activity.

2 (b) Other definitions.

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

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

8 (B) Words importing the plural include the  
9 singular; and

10 (C) Words importing the masculine gender include  
11 the feminine as well.

12 (2) "Company" or "association" as including successors  
13 and assigns. The word "company" or "association", when used  
14 in reference to a corporation, shall be deemed to embrace  
15 the words "successors and assigns of such company or  
16 association", and in like manner as if these last-named  
17 words, or words of similar import, were expressed.

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

22 (Source: P.A. 99-213, eff. 7-31-15; 100-22, eff. 7-6-17.)