

HB3028



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3028

Introduced 2/19/2021, by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. In provisions concerning business income of persons other than residents, removes provisions providing that sales of tangible personal property are in this State if the property is shipped from an office, store, warehouse, factory or other place of storage in this State and the purchaser is not subject to tax in the state of the purchaser.

LRB102 10724 HLH 16053 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

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

1 business income from this State and one or more other states
2 shall 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
7 of 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
10 and the denominator of which is the average value of all
11 the person's real and tangible personal property owned or
12 rented and used in the trade or business during the
13 taxable year.

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

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

26 (2) Payroll factor.

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

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

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

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

13 (iii) For tax years ending prior to December 31,
14 2020, some of the service is performed within this
15 State and either the base of operations, or if there is
16 no base of operations, the place from which the
17 service is directed or controlled is within this
18 State, or the base of operations or the place from
19 which the service is directed or controlled is not in
20 any state in which some part of the service is
21 performed, but the individual's residence is in this
22 State. For tax years ending on or after December 31,
23 2020, compensation is paid in this State if some of the
24 individual's service is performed within this State,
25 the individual's service performed within this State
26 is nonincidental to the individual's service performed

1 without this State, and the individual's service is
2 performed within this State for more than 30 working
3 days during the tax year. The amount of compensation
4 paid in this State shall include the portion of the
5 individual's total compensation for services performed
6 on behalf of his or her employer during the tax year
7 which the number of working days spent within this
8 State during the tax year bears to the total number of
9 working days spent both within and without this State
10 during the tax year. For purposes of this paragraph:

11 (a) The term "working day" means all days
12 during the tax year in which the individual
13 performs duties on behalf of his or her employer.
14 All days in which the individual performs no
15 duties on behalf of his or her employer (e.g.,
16 weekends, vacation days, sick days, and holidays)
17 are not working days.

18 (b) A working day is spent within this State
19 if:

20 (1) the individual performs service on
21 behalf of the employer and a greater amount of
22 time on that day is spent by the individual
23 performing duties on behalf of the employer
24 within this State, without regard to time
25 spent traveling, than is spent performing
26 duties on behalf of the employer without this

1 State; or

2 (2) the only service the individual
3 performs on behalf of the employer on that day
4 is traveling to a destination within this
5 State, and the individual arrives on that day.

6 (c) Working days spent within this State do
7 not include any day in which the employee is
8 performing services in this State during a
9 disaster period solely in response to a request
10 made to his or her employer by the government of
11 this State, by any political subdivision of this
12 State, or by a person conducting business in this
13 State to perform disaster or emergency-related
14 services in this State. For purposes of this item
15 (c):

16 "Declared State disaster or emergency"
17 means a disaster or emergency event (i) for
18 which a Governor's proclamation of a state of
19 emergency has been issued or (ii) for which a
20 Presidential declaration of a federal major
21 disaster or emergency has been issued.

22 "Disaster period" means a period that
23 begins 10 days prior to the date of the
24 Governor's proclamation or the President's
25 declaration (whichever is earlier) and extends
26 for a period of 60 calendar days after the end

1 of the declared disaster or emergency period.

2 "Disaster or emergency-related services"
3 means repairing, renovating, installing,
4 building, or rendering services or conducting
5 other business activities that relate to
6 infrastructure that has been damaged,
7 impaired, or destroyed by the declared State
8 disaster or emergency.

9 "Infrastructure" means property and
10 equipment owned or used by a public utility,
11 communications network, broadband and internet
12 service provider, cable and video service
13 provider, electric or gas distribution system,
14 or water pipeline that provides service to
15 more than one customer or person, including
16 related support facilities. "Infrastructure"
17 includes, but is not limited to, real and
18 personal property such as buildings, offices,
19 power lines, cable lines, poles,
20 communications lines, pipes, structures, and
21 equipment.

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

24 (a) General. The Illinois source income of a
25 nonresident individual who is a member of a
26 professional athletic team includes the portion of the

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

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

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

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

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

1 managers, and trainers.

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

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

25 (B) Also included in duty days are game
26 days, practice days, days spent at team

1 meetings, promotional caravans, preseason
2 training camps, and days served with the team
3 through all post-season games in which the
4 team competes or is scheduled to compete.

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

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

26 (E) Days for which a member of a

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

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

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

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

24 This compensation shall include, but is not
25 limited to, salaries, wages, bonuses as described
26 in this subpart, and any other type of

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

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

26 (3) Sales factor.

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

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

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

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

1 the United States and the property is purchased for
2 resale.

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

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

12 (ii) Place of utilization.

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

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

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

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

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

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

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

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

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

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

1 subscribers in aircraft.

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

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

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

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

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

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

25 "Home service provider" means the facilities based
26 carrier or reseller with which the customer contracts

1 for the provision of mobile telecommunications
2 services.

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

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

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

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

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

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

26 "Service address" means:

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

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

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

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

1 Federal Communications Commission as enhanced or value
2 added. "Telecommunications service" does not include:

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

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

11 (c) Tangible personal property;

12 (d) Advertising, including, but not limited
13 to, directory advertising;

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

16 (f) Internet access service;

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

1 CFR 20.3;

2 (h) "Ancillary services"; or

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

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

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

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

22 (a) The call both originates and terminates in
23 this State.

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

1 (iii) Receipts from the sale of postpaid
2 telecommunications service at retail are in this State
3 if the origination point of the telecommunication
4 signal, as first identified by the service provider's
5 telecommunication system or as identified by
6 information received by the seller from its service
7 provider if the system used to transport
8 telecommunication signals is not the seller's, is
9 located in this State.

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

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

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

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

26 (c) 50% of the total receipts from charges for

1 service segments when those segments are between 2
2 customer channel termination points, 1 of which is
3 located in this State and the other is located
4 outside of this State, which segments are
5 separately charged.

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

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

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

1 (a) 100% of the receipts from access fees
2 attributable to intrastate telecommunications
3 service that both originates and terminates in
4 this State.

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

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

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

1 (B-7) For taxable years ending on or after December
2 31, 2008, receipts from the sale of broadcasting services
3 are in this State if the broadcasting services are
4 received in this State. For purposes of this paragraph
5 (B-7), the following terms have the following meanings:

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

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

24 "Broadcast" or "broadcasting" or "broadcasting
25 services" means the transmission or provision of film
26 or radio programming, whether through the public

1 airwaves, by cable, by direct or indirect satellite
2 transmission, or by any other means of communication,
3 either through a station, a network, or a cable
4 system.

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

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

1 tax periods.

2 (i) In the case of advertising revenue from
3 broadcasting, the customer is the advertiser and
4 the service is received in this State if the
5 commercial domicile of the advertiser is in this
6 State.

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

24 (iii) 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 from the person providing the programming, the
2 portion of the broadcast service that is received
3 by such station, network, or cable system in this
4 State is measured by the portion of recipients of
5 the broadcast located in this State. Accordingly,
6 the amount of revenue related to such an
7 arrangement that is included in the Illinois
8 numerator of the sales factor is the total fee or
9 other total remuneration from the person providing
10 the programming related to that broadcast
11 multiplied by the Illinois audience factor for
12 that broadcast.

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

26 (v) In the case where film or radio

1 programming is provided by a taxpayer that is not
2 a network or station to another person for
3 broadcasting in exchange for a fee or other
4 remuneration from that person, the broadcasting
5 service is received at the location of the office
6 of the customer from which the services were
7 ordered in the regular course of the customer's
8 trade or business. Accordingly, in such a case the
9 revenue derived by the taxpayer that is included
10 in the taxpayer's Illinois numerator of the sales
11 factor is the revenue from such customers who
12 receive the broadcasting service in Illinois.

13 (B-8) Gross receipts from winnings under the Illinois
14 Lottery Law from the assignment of a prize under Section
15 13.1 of the Illinois Lottery Law are received in this
16 State. This paragraph (B-8) applies only to taxable years
17 ending on or after December 31, 2013.

18 (B-9) For taxable years ending on or after December
19 31, 2019, gross receipts from winnings from pari-mutuel
20 wagering conducted at a wagering facility licensed under
21 the Illinois Horse Racing Act of 1975 or from winnings
22 from gambling games conducted on a riverboat or in a
23 casino or organization gaming facility licensed under the
24 Illinois Gambling Act are in this State.

25 (C) For taxable years ending before December 31, 2008,
26 sales, other than sales governed by paragraphs (B), (B-1),

1 (B-2), and (B-8) are in this State if:

2 (i) The income-producing activity is performed in
3 this State; or

4 (ii) The income-producing activity is performed
5 both within and without this State and a greater
6 proportion of the income-producing activity is
7 performed within this State than without this State,
8 based on performance costs.

9 (C-5) For taxable years ending on or after December
10 31, 2008, sales, other than sales governed by paragraphs
11 (B), (B-1), (B-2), (B-5), and (B-7), are in this State if
12 any of the following criteria are met:

13 (i) Sales from the sale or lease of real property
14 are in this State if the property is located in this
15 State.

16 (ii) Sales from the lease or rental of tangible
17 personal property are in this State if the property is
18 located in this State during the rental period. Sales
19 from the lease or rental of tangible personal property
20 that is characteristically moving property, including,
21 but not limited to, motor vehicles, rolling stock,
22 aircraft, vessels, or mobile equipment are in this
23 State to the extent that the property is used in this
24 State.

25 (iii) In the case of interest, net gains (but not
26 less than zero) and other items of income from

1 intangible personal property, the sale is in this
2 State if:

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

18 (b) in all other cases, if the
19 income-producing activity of the taxpayer is
20 performed in this State or, if the
21 income-producing activity of the taxpayer is
22 performed both within and without this State, if a
23 greater proportion of the income-producing
24 activity of the taxpayer is performed within this
25 State than in any other state, based on
26 performance costs.

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

24 (D) For taxable years ending on or after December 31,
25 1995, the following items of income shall not be included
26 in the numerator or denominator of the sales factor:

1 dividends; amounts included under Section 78 of the
2 Internal Revenue Code; and Subpart F income as defined in
3 Section 952 of the Internal Revenue Code. No inference
4 shall be drawn from the enactment of this paragraph (D) in
5 construing this Section for taxable years ending before
6 December 31, 1995.

7 (E) Paragraphs (B-1) and (B-2) shall apply to tax
8 years ending on or after December 31, 1999, provided that
9 a taxpayer may elect to apply the provisions of these
10 paragraphs to prior tax years. Such election shall be made
11 in the form and manner prescribed by the Department, shall
12 be irrevocable, and shall apply to all tax years; provided
13 that, if a taxpayer's Illinois income tax liability for
14 any tax year, as assessed under Section 903 prior to
15 January 1, 1999, was computed in a manner contrary to the
16 provisions of paragraphs (B-1) or (B-2), no refund shall
17 be payable to the taxpayer for that tax year to the extent
18 such refund is the result of applying the provisions of
19 paragraph (B-1) or (B-2) retroactively. In the case of a
20 unitary business group, such election shall apply to all
21 members of such group for every tax year such group is in
22 existence, but shall not apply to any taxpayer for any
23 period during which that taxpayer is not a member of such
24 group.

25 (b) Insurance companies.

26 (1) In general. Except as otherwise provided by

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

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

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

20 (c) Financial organizations.

21 (1) In general. For taxable years ending before
22 December 31, 2008, business income of a financial
23 organization shall be apportioned to this State by
24 multiplying such income by a fraction, the numerator of
25 which is its business income from sources within this
26 State, and the denominator of which is its business income

1 from all sources. For the purposes of this subsection, the
2 business income of a financial organization from sources
3 within this State is the sum of the amounts referred to in
4 subparagraphs (A) through (E) following, but excluding the
5 adjusted income of an international banking facility as
6 determined in paragraph (2):

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

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

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

13 (D) Interest charged to customers at places of
14 business maintained within this State for carrying
15 debit balances of margin accounts, without deduction
16 of any costs incurred in carrying such accounts; and

17 (E) Any other gross income resulting from the
18 operation as a financial organization within this
19 State.

20 In computing the amounts referred to in paragraphs (A)
21 through (E) of this subsection, any amount received by a
22 member of an affiliated group (determined under Section
23 1504(a) of the Internal Revenue Code but without reference
24 to whether any such corporation is an "includible
25 corporation" under Section 1504(b) of the Internal Revenue
26 Code) from another member of such group shall be included

1 only to the extent such amount exceeds expenses of the
2 recipient directly related thereto.

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

5 (A) Adjusted Income. The adjusted income of an
6 international banking facility is its income reduced
7 by the amount of the floor amount.

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

12 (i) The numerator shall be:

13 The average aggregate, determined on a
14 quarterly basis, of the financial organization's
15 loans to banks in foreign countries, to foreign
16 domiciled borrowers (except where secured
17 primarily by real estate) and to foreign
18 governments and other foreign official
19 institutions, as reported for its branches,
20 agencies and offices within the state on its
21 "Consolidated Report of Condition", Schedule A,
22 Lines 2.c., 5.b., and 7.a., which was filed with
23 the Federal Deposit Insurance Corporation and
24 other regulatory authorities, for the year 1980,
25 minus

26 The average aggregate, determined on a

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

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

19 (C) Change to Consolidated Report of Condition and
20 in Qualification. In the event the Consolidated Report
21 of Condition which is filed with the Federal Deposit
22 Insurance Corporation and other regulatory authorities
23 is altered so that the information required for
24 determining the floor amount is not found on Schedule
25 A, lines 2.c., 5.b. and 7.a., the financial
26 institution shall notify the Department and the

1 Department may, by regulations or otherwise, prescribe
2 or authorize the use of an alternative source for such
3 information. The financial institution shall also
4 notify the Department should its international banking
5 facility fail to qualify as such, in whole or in part,
6 or should there be any amendment or change to the
7 Consolidated Report of Condition, as originally filed,
8 to the extent such amendment or change alters the
9 information used in determining the floor amount.

10 (3) For taxable years ending on or after December 31,
11 2008, the business income of a financial organization
12 shall be apportioned to this State by multiplying such
13 income by a fraction, the numerator of which is its gross
14 receipts from sources in this State or otherwise
15 attributable to this State's marketplace and the
16 denominator of which is its gross receipts everywhere
17 during the taxable year. "Gross receipts" for purposes of
18 this subparagraph (3) means gross income, including net
19 taxable gain on disposition of assets, including
20 securities and money market instruments, when derived from
21 transactions and activities in the regular course of the
22 financial organization's trade or business. The following
23 examples are illustrative:

24 (i) Receipts from the lease or rental of real or
25 tangible personal property are in this State if the
26 property is located in this State during the rental

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

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

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

17 (iv) Interest income, commissions, fees, gains on
18 disposition, and other receipts from commercial loans
19 and installment obligations that are not secured by
20 real or tangible personal property are from sources in
21 this State if the proceeds of the loan are to be
22 applied in this State. If it cannot be determined
23 where the funds are to be applied, the income and
24 receipts are from sources in this State if the office
25 of the borrower from which the loan was negotiated in
26 the regular course of business is located in this

1 State. If the location of this office cannot be
2 determined, the income and receipts shall be excluded
3 from the numerator and denominator of the sales
4 factor.

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

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

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

19 (viii) Receipts from investment assets and
20 activities and trading assets and activities are
21 included in the receipts factor as follows:

22 (1) Interest, dividends, net gains (but not
23 less than zero) and other income from investment
24 assets and activities from trading assets and
25 activities shall be included in the receipts
26 factor. Investment assets and activities and

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

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

19 (B) The receipts factor shall include the
20 amount by which interest, dividends, gains and
21 other income from trading assets and
22 activities, including, but not limited to,
23 assets and activities in the matched book, in
24 the arbitrage book, and foreign currency
25 transactions, exceed amounts paid in lieu of
26 interest, amounts paid in lieu of dividends,

1 and losses from such assets and activities.

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

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

21 (B) The amount of interest from federal
22 funds sold and purchased and from securities
23 purchased under resale agreements and
24 securities sold under repurchase agreements
25 attributable to this State and included in the
26 numerator is determined by multiplying the

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

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

1 assets and activities.

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

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

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

20 (iii) the taxpayer uses such records
21 reflecting assignment of such assets or
22 activities for the filing of all state and
23 local tax returns for which an assignment
24 of such assets or activities to a fixed
25 place of business is required.

26 (E) The presumption of proper assignment

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

1 they are working, irrespective of where the
2 services of such employees are performed, as
3 of the last day of the taxable year.

4 (4) (Blank).

5 (5) (Blank).

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

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

19 (2) Receipts attributable to all other matching,
20 execution, or clearing transactions, including without
21 limitation receipts from the provision of matching,
22 execution, or clearing services to another entity,
23 multiplied by (i) for taxable years ending on or after
24 December 31, 2012 but before December 31, 2013, 63.77%;
25 and (ii) for taxable years ending on or after December 31,
26 2013, 27.54%.

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

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

22 In no event shall the Illinois apportionment percentage
23 computed in accordance with this subsection (c-1) for any
24 taxpayer for any tax year be less than the Illinois
25 apportionment percentage computed under this subsection (c-1)
26 for that taxpayer for the first full tax year ending on or

1 after December 31, 2013 for which this subsection (c-1)
2 applied to the taxpayer.

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

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

21 (A) relative railway operating income from total
22 passenger and total freight service, as reported to
23 the Interstate Commerce Commission, in the case of
24 transportation by railroad, and

25 (B) relative gross receipts from passenger and
26 freight transportation, in case of transportation

1 other than by railroad.

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

12 (3) For taxable years ending on or after December 31,
13 2008, business income derived from providing
14 transportation services other than airline services shall
15 be apportioned to this State by using a fraction, (a) the
16 numerator of which shall be (i) all receipts from any
17 movement or shipment of people, goods, mail, oil, gas, or
18 any other substance (other than by airline) that both
19 originates and terminates in this State, plus (ii) that
20 portion of the person's gross receipts from movements or
21 shipments of people, goods, mail, oil, gas, or any other
22 substance (other than by airline) that originates in one
23 state or jurisdiction and terminates in another state or
24 jurisdiction, that is determined by the ratio that the
25 miles traveled in this State bears to total miles
26 everywhere and (b) the denominator of which shall be all

1 revenue derived from the movement or shipment of people,
2 goods, mail, oil, gas, or any other substance (other than
3 by airline). Where a taxpayer is engaged in the
4 transportation of both passengers and freight, the
5 fraction above referred to shall first be determined
6 separately for passenger miles and freight miles. Then an
7 average of the passenger miles fraction and the freight
8 miles fraction shall be weighted to reflect the
9 taxpayer's:

10 (A) relative railway operating income from total
11 passenger and total freight service, as reported to
12 the Surface Transportation Board, in the case of
13 transportation by railroad; and

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

17 (4) For taxable years ending on or after December 31,
18 2008, business income derived from furnishing airline
19 transportation services shall be apportioned to this State
20 by multiplying such income by a fraction, the numerator of
21 which is the revenue miles of the person in this State, and
22 the denominator of which is the revenue miles of the
23 person everywhere. For purposes of this paragraph, a
24 revenue mile is the transportation of one passenger or one
25 net ton of freight the distance of one mile for a
26 consideration. If a person is engaged in the

1 transportation of both passengers and freight, the
2 fraction above referred to shall be determined by means of
3 an average of the passenger revenue mile fraction and the
4 freight revenue mile fraction, weighted to reflect the
5 person's relative gross receipts from passenger and
6 freight airline transportation.

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

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

23 (1) Separate accounting;

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

25 (3) The inclusion of one or more additional factors
26 which will fairly represent the person's business

1 activities or market in this State; or

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

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

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

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

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

18 (3) for tax years ending on or after December 31,
19 2000, the sales factor.

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

1 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;
2 101-585, eff. 8-26-19; revised 9-12-19.)