



Sen. Bill Cunningham

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1 AMENDMENT TO SENATE BILL 1880

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1880 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 1501 as follows:

6 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

7 Sec. 1501. Definitions.

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

11 (1) Business income. The term "business income" means  
12 all income that may be treated as apportionable business  
13 income under the Constitution of the United States.  
14 Business income is net of the deductions allocable  
15 thereto. Such term does not include compensation or the  
16 deductions allocable thereto. For each taxable year

1 beginning on or after January 1, 2003, a taxpayer may  
2 elect to treat all income other than compensation as  
3 business income. This election shall be made in accordance  
4 with rules adopted by the Department and, once made, shall  
5 be irrevocable.

6 (1.5) Captive real estate investment trust:

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

9 (i) that is considered a real estate  
10 investment trust for the taxable year under  
11 Section 856 of the Internal Revenue Code;

12 (ii) the certificates of beneficial interest  
13 or shares of which are not regularly traded on an  
14 established securities market; and

15 (iii) of which more than 50% of the voting  
16 power or value of the beneficial interest or  
17 shares, at any time during the last half of the  
18 taxable year, is owned or controlled, directly,  
19 indirectly, or constructively, by a single  
20 corporation.

21 (B) The term "captive real estate investment  
22 trust" does not include:

23 (i) a real estate investment trust of which  
24 more than 50% of the voting power or value of the  
25 beneficial interest or shares is owned or  
26 controlled, directly, indirectly, or



1 asset value at the close of its taxable  
2 year is represented by real estate assets  
3 (as defined in Section 856(c)(5)(B) of the  
4 Internal Revenue Code, thereby including  
5 shares or certificates of beneficial  
6 interest in any real estate investment  
7 trust), cash and cash equivalents, and  
8 U.S. Government securities;

9 (2) the entity is not subject to tax  
10 on amounts that are distributed to its  
11 beneficial owners or is exempt from  
12 entity-level taxation;

13 (3) the entity distributes at least  
14 85% of its taxable income (as computed in  
15 the jurisdiction in which it is organized)  
16 to the holders of its shares or  
17 certificates of beneficial interest on an  
18 annual basis;

19 (4) either (i) the shares or  
20 beneficial interests of the entity are  
21 regularly traded on an established  
22 securities market or (ii) not more than  
23 10% of the voting power or value in the  
24 entity is held, directly, indirectly, or  
25 constructively, by a single entity or  
26 individual; and

1                   (5) the entity is organized in a  
2                   country that has entered into a tax treaty  
3                   with the United States; or

4                   (ii) during its first taxable year for which  
5                   it elects to be treated as a real estate  
6                   investment trust under Section 856(c)(1) of the  
7                   Internal Revenue Code, a real estate investment  
8                   trust the certificates of beneficial interest or  
9                   shares of which are not regularly traded on an  
10                  established securities market, but only if the  
11                  certificates of beneficial interest or shares of  
12                  the real estate investment trust are regularly  
13                  traded on an established securities market prior  
14                  to the earlier of the due date (including  
15                  extensions) for filing its return under this Act  
16                  for that first taxable year or the date it  
17                  actually files that return.

18                  (C) For the purposes of this subsection (1.5), the  
19                  constructive ownership rules prescribed under Section  
20                  318(a) of the Internal Revenue Code, as modified by  
21                  Section 856(d)(5) of the Internal Revenue Code, apply  
22                  in determining the ownership of stock, assets, or net  
23                  profits of any person.

24                  (D) For the purposes of this item (1.5), for  
25                  taxable years ending on or after August 16, 2007, the  
26                  voting power or value of the beneficial interest or

1 shares of a real estate investment trust does not  
2 include any voting power or value of beneficial  
3 interest or shares in a real estate investment trust  
4 held directly or indirectly in a segregated asset  
5 account by a life insurance company (as described in  
6 Section 817 of the Internal Revenue Code) to the  
7 extent such voting power or value is for the benefit of  
8 entities or persons who are either immune from  
9 taxation or exempt from taxation under subtitle A of  
10 the Internal Revenue Code.

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

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

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

23 (5) Department. The term "Department" means the  
24 Department of Revenue of this State.

25 (6) Director. The term "Director" means the Director  
26 of Revenue of this State.

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

4           (8) Financial organization.

5           (A) The term "financial organization" means any  
6 bank, bank holding company, trust company, savings  
7 bank, industrial bank, land bank, safe deposit  
8 company, private banker, savings and loan association,  
9 building and loan association, credit union, currency  
10 exchange, cooperative bank, small loan company, sales  
11 finance company, investment company, or any person  
12 which is owned by a bank or bank holding company. For  
13 the purpose of this Section a "person" will include  
14 only those persons which a bank holding company may  
15 acquire and hold an interest in, directly or  
16 indirectly, under the provisions of the Bank Holding  
17 Company Act of 1956 (12 U.S.C. 1841, et seq.), except  
18 where interests in any person must be disposed of  
19 within certain required time limits under the Bank  
20 Holding Company Act of 1956.

21           (B) For purposes of subparagraph (A) of this  
22 paragraph, the term "bank" includes (i) any entity  
23 that is regulated by the Comptroller of the Currency  
24 under the National Bank Act, or by the Federal Reserve  
25 Board, or by the Federal Deposit Insurance Corporation  
26 and (ii) any federally or State chartered bank

1 operating as a credit card bank.

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

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

14 (a) a retail installment contract or  
15 retail charge agreement within the meaning of  
16 the Sales Finance Agency Act, the Retail  
17 Installment Sales Act, or the Motor Vehicle  
18 Retail Installment Sales Act;

19 (b) an installment, charge, credit, or  
20 similar contract or agreement arising from the  
21 sale of tangible personal property or services  
22 in a transaction involving a deferred payment  
23 price payable in one or more installments  
24 subsequent to the sale; or

25 (c) the outstanding balance of a contract  
26 or agreement described in provisions (a) or



1 (b) of this item (i).

2 A customer receivable need not provide for  
3 payment of interest on deferred payments. A sales  
4 finance company may purchase a customer receivable  
5 from, or make a loan secured by a customer  
6 receivable to, the seller in the original  
7 transaction or to a person who purchased the  
8 customer receivable directly or indirectly from  
9 that seller.

10 (ii) A corporation meeting each of the  
11 following criteria:

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

17 (b) more than 50% of the gross income of  
18 the corporation for the taxable year must be  
19 interest income derived from qualifying loans.  
20 A "qualifying loan" is a loan made to a member  
21 of the corporation's affiliated group that  
22 originates customer receivables (within the  
23 meaning of item (i)) or to whom customer  
24 receivables originated by a member of the  
25 affiliated group have been transferred, to the  
26 extent the average outstanding balance of

1 loans from that corporation to members of its  
2 affiliated group during the taxable year do  
3 not exceed the limitation amount for that  
4 corporation. The "limitation amount" for a  
5 corporation is the average outstanding  
6 balances during the taxable year of customer  
7 receivables (within the meaning of item (i))  
8 originated by all members of the affiliated  
9 group. If the average outstanding balances of  
10 the loans made by a corporation to members of  
11 its affiliated group exceed the limitation  
12 amount, the interest income of that  
13 corporation from qualifying loans shall be  
14 equal to its interest income from loans to  
15 members of its affiliated groups times a  
16 fraction equal to the limitation amount  
17 divided by the average outstanding balances of  
18 the loans made by that corporation to members  
19 of its affiliated group;

20 (c) the total of all shareholder's equity  
21 (including, without limitation, paid-in  
22 capital on common and preferred stock and  
23 retained earnings) of the corporation plus the  
24 total of all of its loans, advances, and other  
25 obligations payable or owed to members of its  
26 affiliated group may not exceed 20% of the

1 total assets of the corporation at any time  
2 during the tax year; and

3 (d) more than 50% of all interest-bearing  
4 obligations of the affiliated group payable to  
5 persons outside the group determined in  
6 accordance with generally accepted accounting  
7 principles must be obligations of the  
8 corporation.

9 This amendatory Act of the 91st General Assembly  
10 is declaratory of existing law.

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

24 (E) For all tax years beginning on or before  
25 December 31, 1996, a taxpayer that falls within the  
26 definition of a "financial organization" under

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

20                 (F) Finance Leases. For purposes of this  
21                 subsection, a finance lease shall be treated as a loan  
22                 or other extension of credit, rather than as a lease,  
23                 regardless of how the transaction is characterized for  
24                 any other purpose, including the purposes of any  
25                 regulatory agency to which the lessor is subject. A  
26                 finance lease is any transaction in the form of a lease

1 in which the lessee is treated as the owner of the  
2 leased asset entitled to any deduction for  
3 depreciation allowed under Section 167 of the Internal  
4 Revenue Code.

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

8 (9.5) Fixed place of business. The term "fixed place  
9 of business" has the same meaning as that term is given in  
10 Section 864 of the Internal Revenue Code and the related  
11 Treasury regulations.

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

16 (11) Internal Revenue Code. The term "Internal Revenue  
17 Code" means the United States Internal Revenue Code of  
18 1954 or any successor law or laws relating to federal  
19 income taxes in effect for the taxable year.

20 (11.5) Investment partnership.

21 (A) For tax years ending before December 31, 2023,  
22 the ~~The~~ term "investment partnership" means any entity  
23 that is treated as a partnership for federal income  
24 tax purposes that meets the following requirements:

25 (i) no less than 90% of the partnership's cost  
26 of its total assets consists of qualifying

1 investment securities, deposits at banks or other  
2 financial institutions, and office space and  
3 equipment reasonably necessary to carry on its  
4 activities as an investment partnership;

5 (ii) no less than 90% of its gross income  
6 consists of interest, dividends, and gains from  
7 the sale or exchange of qualifying investment  
8 securities; and

9 (iii) the partnership is not a dealer in  
10 qualifying investment securities.

11 (A-5) For tax years ending on or after December  
12 31, 2023, the term "investment partnership" means any  
13 entity that is treated as a partnership for federal  
14 income tax purposes that meets the following  
15 requirements:

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

22 (ii) no less than 90% of its gross income  
23 consists of interest, dividends, gains from the  
24 sale or exchange of qualifying investment  
25 securities, and the distributive share of  
26 partnership income from lower-tier partnership



1 currencies;

2 (vii) stock and bond index securities and  
3 futures contracts and other similar financial  
4 securities and futures contracts on those  
5 securities;

6 (viii) options for the purchase or sale of any  
7 of the securities, currencies, contracts, or  
8 financial instruments described in items (i) to  
9 (vii), inclusive;

10 (ix) regulated futures contracts;

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

19 (xi) derivatives; ~~and~~

20 (xii) a partnership interest in another  
21 partnership that is an investment partnership; and

22 -

23 (xiii) for tax years ending on or after  
24 December 31, 2023, a partnership interest which,  
25 in the hands of the partnership, qualifies as a  
26 security within the meaning of subsection (a)(1)



1                   of Subchapter 77b of Chapter 2A of Title 15 of the  
2                   United States Code.

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

7                   (A) arithmetic errors or incorrect computations on  
8 the return or supporting schedules;

9                   (B) entries on the wrong lines;

10                   (C) omission of required supporting forms or  
11 schedules or the omission of the information in whole  
12 or in part called for thereon; and

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

17           (13) Nonbusiness income. The term "nonbusiness income"  
18 means all income other than business income or  
19 compensation.

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

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

26           (16) Partnership and partner. The term "partnership"

1 includes a syndicate, group, pool, joint venture or other  
2 unincorporated organization, through or by means of which  
3 any business, financial operation, or venture is carried  
4 on, and which is not, within the meaning of this Act, a  
5 trust or estate or a corporation; and the term "partner"  
6 includes a member in such syndicate, group, pool, joint  
7 venture or organization.

8 The term "partnership" includes any entity, including  
9 a limited liability company formed under the Illinois  
10 Limited Liability Company Act, classified as a partnership  
11 for federal income tax purposes.

12 The term "partnership" does not include a syndicate,  
13 group, pool, joint venture, or other unincorporated  
14 organization established for the sole purpose of playing  
15 the Illinois State Lottery.

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

26 (18) Person. The term "person" shall be construed to

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

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

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

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

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

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

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

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

7           (21) Sales. The term "sales" means all gross receipts  
8           of the taxpayer not allocated under Sections 301, 302 and  
9           303.

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

22          (23) Taxable year. The term "taxable year" means the  
23          calendar year, or the fiscal year ending during such  
24          calendar year, upon the basis of which the base income is  
25          computed under this Act. "Taxable year" means, in the case  
26          of a return made for a fractional part of a year under the

1 provisions of this Act, the period for which such return  
2 is made.

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

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

10 (26) Income Tax Return Preparer.

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

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

21 (i) furnish typing, reproducing, or other  
22 mechanical assistance;

23 (ii) prepare returns or claims for refunds for  
24 the employer by whom he or she is regularly and  
25 continuously employed;

26 (iii) prepare as a fiduciary returns or claims

1 for refunds for any person; or

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

11 (27) Unitary business group.

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

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

1 and, in either instance, the members are functionally  
2 integrated through the exercise of strong centralized  
3 management (where, for example, authority over such  
4 matters as purchasing, financing, tax compliance,  
5 product line, personnel, marketing and capital  
6 investment is not left to each member).

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



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

20 (C) Holding companies.

21 (i) For purposes of this subparagraph, a  
22 "holding company" is a corporation (other than a  
23 corporation that is a financial organization under  
24 paragraph (8) of this subsection (a) of Section  
25 1501 because it is a bank holding company under  
26 the provisions of the Bank Holding Company Act of

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

25 (ii) The income of a holding company which is  
26 a member of more than one unitary business group

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

12 (iii) A holding company shall apportion its  
13 business income under the subsection of Section  
14 304 used by the other members of its unitary  
15 business group. The apportionment factors of a  
16 holding company which would be a member of more  
17 than one unitary business group shall be included  
18 with the apportionment factors of each unitary  
19 business group of which it is a member on a pro  
20 rata basis using the same method used in clause  
21 (ii).

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

24 (D) If including the base income and factors of a  
25 holding company in more than one unitary business  
26 group under subparagraph (C) does not fairly reflect

1 the degree of integration between the holding company  
2 and one or more of the unitary business groups, the  
3 dependence of the holding company and one or more of  
4 the unitary business groups upon each other, or the  
5 contributions between the holding company and one or  
6 more of the unitary business groups, the holding  
7 company may petition the Director, under the  
8 procedures provided under Section 304(f), for  
9 permission to include all base income and factors of  
10 the holding company only with members of a unitary  
11 business group apportioning their business income  
12 under one subsection of subsections (a), (b), (c), or  
13 (d) of Section 304. If the petition is granted, the  
14 holding company shall be included in a unitary  
15 business group only with persons apportioning their  
16 business income under the selected subsection of  
17 Section 304 until the Director grants a petition of  
18 the holding company either to be included in more than  
19 one unitary business group under subparagraph (C) or  
20 to include its base income and factors only with  
21 members of a unitary business group apportioning their  
22 business income under a different subsection of  
23 Section 304.

24 (E) If the unitary business group members'  
25 accounting periods differ, the common parent's  
26 accounting period or, if there is no common parent,

1           the accounting period of the member that is expected  
2           to have, on a recurring basis, the greatest Illinois  
3           income tax liability must be used to determine whether  
4           to use the apportionment method provided in subsection  
5           (a) or subsection (h) of Section 304. The prohibition  
6           against membership in a unitary business group for  
7           taxpayers ordinarily required to apportion income  
8           under different subsections of Section 304 does not  
9           apply to taxpayers required to apportion income under  
10          subsection (a) and subsection (h) of Section 304. The  
11          provisions of this amendatory Act of 1998 apply to tax  
12          years ending on or after December 31, 1998.

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

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

1 (b) Other definitions.

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

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

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

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

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

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

21 (Source: P.A. 102-1030, eff. 5-27-22.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."