



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by James F. Clayborne Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 5/302	from Ch. 120, par. 3-302
35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/601	from Ch. 120, par. 6-601

Amends the Illinois Income Tax Act. Sets forth procedures to determine the source income of a nonresident individual who is a member of a professional athletic team. Effective immediately.

LRB093 19455 BDD 45193 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 302, 304, and 601 as follows:

6 (35 ILCS 5/302) (from Ch. 120, par. 3-302)

7 Sec. 302. Compensation paid to nonresidents.

8 (a) In general. All items of compensation paid in this
9 State (as determined under Section 304(a)(2)(B)) to an
10 individual who is a nonresident at the time of such payment and
11 all items of deduction directly allocable thereto, shall be
12 allocated to this State.

13 (b) Reciprocal exemption. The Director may enter into an
14 agreement with the taxing authorities of any state which
15 imposes a tax on or measured by income to provide that
16 compensation paid in such state to residents of this State
17 shall be exempt from such tax; in such case, any compensation
18 paid in this State to residents of such state shall not be
19 allocated to this State. All reciprocal agreements shall be
20 subject to the requirements of Section 2505-575 of the
21 Department of Revenue Law (20 ILCS 2505/2505-575).

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

24 (1) General. The Illinois source income of a
25 nonresident individual who is a member of a professional
26 athletic team includes the portion of the individual's
27 total compensation for services performed as a member of a
28 professional athletic team during the taxable year which
29 the number of duty days spent within this State performing
30 services for the team in any manner during the taxable year
31 bears to the total number of duty days spent both within
32 and without this State during the taxable year.

1 (2) Travel days. Travel days that do not involve either
2 a game, practice, team meeting, or other similar team event
3 are not considered duty days spent in this State. However,
4 such travel days are considered in the total duty days
5 spent both within and without this State.

6 (3) Definitions. For purposes of this subsection (c):

7 (A) "Professional athletic team" includes, but is
8 not limited to, any professional baseball, basketball,
9 football, soccer, or hockey team.

10 (B) "Member of a professional athletic team"
11 includes those employees who are active players,
12 players on the disabled list, and any other persons
13 required to travel and who travel with and perform
14 services on behalf of a professional athletic team on a
15 regular basis. This includes, but is not limited to,
16 coaches, managers, and trainers.

17 (C) Except as provided in subparagraphs (iii) and
18 (iv) of this paragraph, "duty days" means all days
19 during the taxable year from the beginning of the
20 professional athletic team's official pre-season
21 training period through the last game in which the team
22 competes or is scheduled to compete. Duty days shall be
23 counted for the year in which they occur, including
24 where a team's official pre-season training period
25 through the last game in which the team competes or is
26 scheduled to compete occurs during more than one tax
27 year.

28 (i) "Duty days" shall also include days on
29 which a member of a professional athletic team
30 performs service for a team on a date that does not
31 fall within the foregoing period (e.g.,
32 participation in instructional leagues, the "All
33 Star Game," or promotional "caravans"). Performing
34 a service for a professional athletic team
35 includes conducting training and rehabilitation
36 activities, when such activities are conducted at

1 team facilities.

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

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

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

27 (v) Days for which a member of a professional
28 athletic team is on the disabled list and does not
29 conduct rehabilitation activities at facilities of
30 the team and is not otherwise performing services
31 for the team in Illinois, shall not be considered
32 "duty days" spent in this State. However, all days
33 on the disabled list are considered to be included
34 in total duty days spent both within and without
35 this State.

36 (D) The term "total compensation for services

1 performed as a member of a professional athletic team"
2 means the total compensation received during the
3 taxable year for services performed:

4 (i) from the beginning of the official
5 preseason training period through the last game in
6 which the team competes or is scheduled to compete
7 during that taxable year; and

8 (ii) during the taxable year on a date that
9 does not fall within the foregoing period (e.g.,
10 participation in instructional leagues, the "All
11 Star Game," or promotional caravans). The
12 compensation includes, without limitation,
13 salaries, wages, bonuses as described in
14 subparagraph (iii) of this subparagraph (D), and
15 any other type of compensation paid during the
16 taxable year to a member of a professional athletic
17 team for services performed in that year. The
18 compensation does not include strike benefits,
19 severance pay, termination pay, contract or option
20 year buy-out payments, expansion or relocation
21 payments, or any other payments not related to
22 services performed for the team.

23 (iii) for purposes of this subparagraph,
24 "bonuses" included in "total compensation for
25 services performed as a member of a professional
26 athletic team" subject to the allocation described
27 in Section 302(c)(1) are: bonuses earned as a
28 result of play (i.e., performance bonuses) during
29 the season, including bonuses paid for
30 championship, playoff or "bowl" games played by a
31 team, or for selection to all-star league or other
32 honorary positions; and bonuses paid for signing a
33 contract, unless the payment of the signing bonus
34 is not conditional upon the signee playing any
35 games for the team or performing any subsequent
36 services for the team or even making the team, the

1 signing bonus is payable separately from the
2 salary and any other compensation, and the signing
3 bonus is nonrefundable.

4 (4) Alternative methods. It is presumed that
5 application of the provisions of this subsection (d) will
6 produce a fair and equitable apportionment of the
7 compensation paid to a nonresident professional athlete.
8 If, however, it is demonstrated that the these provisions
9 do not achieve a fair or equitable apportionment of
10 compensation, then the Department may require a
11 nonresident professional athlete to allocate or apportion
12 his or her compensation under an alternative method, as
13 long as the alternative method produces a fair and
14 equitable apportionment. In addition, a nonresident member
15 of a professional athletic team may submit a petition for
16 an alternative method to apportion his or her compensation
17 where the nonresident professional athlete demonstrates
18 that the general method provided under this subsection does
19 not fairly or equitably apportion his or her compensation.
20 The proposed alternative method must be fully explained in
21 the nonresident professional athlete's Illinois
22 nonresident personal income tax return.

23 (d) ~~(e)~~ Cross references.

24 (1) For allocation of amounts received by nonresidents
25 from certain employee trusts, see Section 301(b)(2).

26 (2) For allocation of compensation by residents, see
27 Section 301(a).

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

29 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

31 (a) In general. The business income of a person other than
32 a resident shall be allocated to this State if such person's
33 business income is derived solely from this State. If a person
34 other than a resident derives business income from this State
35 and one or more other states, then, for tax years ending on or

1 before December 30, 1998, and except as otherwise provided by
2 this Section, such person's business income shall be
3 apportioned to this State by multiplying the income by a
4 fraction, the numerator of which is the sum of the property
5 factor (if any), the payroll factor (if any) and 200% of the
6 sales factor (if any), and the denominator of which is 4
7 reduced by the number of factors other than the sales factor
8 which have a denominator of zero and by an additional 2 if the
9 sales factor has a denominator of zero. For tax years ending on
10 or after December 31, 1998, and except as otherwise provided by
11 this Section, persons other than residents who derive business
12 income from this State and one or more other states shall
13 compute their apportionment factor by weighting their
14 property, payroll, and sales factors as provided in subsection
15 (h) of this Section.

16 (1) Property factor.

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

25 (B) Property owned by the person is valued at its
26 original cost. Property rented by the person is valued at 8
27 times the net annual rental rate. Net annual rental rate is
28 the annual rental rate paid by the person less any annual
29 rental rate received by the person from sub-rentals.

30 (C) The average value of property shall be determined
31 by averaging the values at the beginning and ending of the
32 taxable year but the Director may require the averaging of
33 monthly values during the taxable year if reasonably
34 required to reflect properly the average value of the
35 person's property.

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

21 (iv) The compensation paid to a nonresident
22 professional athlete shall be assigned to this State
23 under subsection (c) of Section 302.

24 Beginning with taxable years ending on or after
25 December 31, 1992, for residents of states that impose a
26 comparable tax liability on residents of this State, for
27 purposes of item (i) of this paragraph (B), in the case of
28 persons who perform personal services under personal
29 service contracts for sports performances, services by
30 that person at a sporting event taking place in Illinois
31 shall be deemed to be a performance entirely within this
32 State.

33 (3) Sales factor.

34 (A) The sales factor is a fraction, the numerator of
35 which is the total sales of the person in this State during
36 the taxable year, and the denominator of which is the total

1 sales of the person everywhere during the taxable year.

2 (B) Sales of tangible personal property are in this
3 State if:

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

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

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

26 (i) Gross receipts from the licensing, sale, or
27 other disposition of a patent, copyright, trademark,
28 or similar item of intangible personal property are in
29 this State to the extent the item is utilized in this
30 State during the year the gross receipts are included
31 in gross income.

32 (ii) Place of utilization.

33 (I) A patent is utilized in a state to the
34 extent that it is employed in production,
35 fabrication, manufacturing, or other processing in
36 the state or to the extent that a patented product

1 is produced in the state. If a patent is utilized
2 in more than one state, the extent to which it is
3 utilized in any one state shall be a fraction equal
4 to the gross receipts of the licensee or purchaser
5 from sales or leases of items produced,
6 fabricated, manufactured, or processed within that
7 state using the patent and of patented items
8 produced within that state, divided by the total of
9 such gross receipts for all states in which the
10 patent is utilized.

11 (II) A copyright is utilized in a state to the
12 extent that printing or other publication
13 originates in the state. If a copyright is utilized
14 in more than one state, the extent to which it is
15 utilized in any one state shall be a fraction equal
16 to the gross receipts from sales or licenses of
17 materials printed or published in that state
18 divided by the total of such gross receipts for all
19 states in which the copyright is utilized.

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

24 (iii) If the state of utilization of an item of
25 property governed by this paragraph (B-1) cannot be
26 determined from the taxpayer's books and records or
27 from the books and records of any person related to the
28 taxpayer within the meaning of Section 267(b) of the
29 Internal Revenue Code, 26 U.S.C. 267, the gross
30 receipts attributable to that item shall be excluded
31 from both the numerator and the denominator of the
32 sales factor.

33 (B-2) Gross receipts from the license, sale, or other
34 disposition of patents, copyrights, trademarks, and
35 similar items of intangible personal property may be
36 included in the numerator or denominator of the sales

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

9 (C) Sales, other than sales governed by paragraphs (B)
10 and (B-1), are in this State if:

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

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

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

27 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
28 ending on or after December 31, 1999, provided that a
29 taxpayer may elect to apply the provisions of these
30 paragraphs to prior tax years. Such election shall be made
31 in the form and manner prescribed by the Department, shall
32 be irrevocable, and shall apply to all tax years; provided
33 that, if a taxpayer's Illinois income tax liability for any
34 tax year, as assessed under Section 903 prior to January 1,
35 1999, was computed in a manner contrary to the provisions
36 of paragraphs (B-1) or (B-2), no refund shall be payable to

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

8 (b) Insurance companies.

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

24 (2) Reinsurance. If the principal source of premiums
25 written by an insurance company consists of premiums for
26 reinsurance accepted by it, the business income of such
27 company shall be apportioned to this State by multiplying
28 such income by a fraction, the numerator of which is the
29 sum of (i) direct premiums written for insurance upon
30 property or risk in this State, plus (ii) premiums written
31 for reinsurance accepted in respect of property or risk in
32 this State, and the denominator of which is the sum of
33 (iii) direct premiums written for insurance upon property
34 or risk everywhere, plus (iv) premiums written for
35 reinsurance accepted in respect of property or risk
36 everywhere. For purposes of this paragraph, premiums

1 written for reinsurance accepted in respect of property or
2 risk in this State, whether or not otherwise determinable,
3 may, at the election of the company, be determined on the
4 basis of the proportion which premiums written for
5 reinsurance accepted from companies commercially domiciled
6 in Illinois bears to premiums written for reinsurance
7 accepted from all sources, or, alternatively, in the
8 proportion which the sum of the direct premiums written for
9 insurance upon property or risk in this State by each
10 ceding company from which reinsurance is accepted bears to
11 the sum of the total direct premiums written by each such
12 ceding company for the taxable year.

13 (c) Financial organizations.

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

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

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

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

31 (D) Interest charged to customers at places of
32 business maintained within this State for carrying
33 debit balances of margin accounts, without deduction
34 of any costs incurred in carrying such accounts; and

35 (E) Any other gross income resulting from the
36 operation as a financial organization within this

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

11 (2) International Banking Facility.

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

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

19 (i) The numerator shall be:

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

33 The average aggregate, determined on a
34 quarterly basis, of such loans (other than loans of
35 an international banking facility), as reported by
36 the financial institution for its branches,

1 agencies and offices within the state, on the
2 corresponding Schedule and lines of the
3 Consolidated Report of Condition for the current
4 taxable year, provided, however, that in no case
5 shall the amount determined in this clause (the
6 subtrahend) exceed the amount determined in the
7 preceding clause (the minuend); and

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

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

33 (d) Transportation services. Business income derived from
34 furnishing transportation services shall be apportioned to
35 this State in accordance with paragraphs (1) and (2):

36 (1) Such business income (other than that derived from

1 transportation by pipeline) shall be apportioned to this
2 State by multiplying such income by a fraction, the
3 numerator of which is the revenue miles of the person in
4 this State, and the denominator of which is the revenue
5 miles of the person everywhere. For purposes of this
6 paragraph, a revenue mile is the transportation of 1
7 passenger or 1 net ton of freight the distance of 1 mile
8 for a consideration. Where a person is engaged in the
9 transportation of both passengers and freight, the
10 fraction above referred to shall be determined by means of
11 an average of the passenger revenue mile fraction and the
12 freight revenue mile fraction, weighted to reflect the
13 person's

14 (A) relative railway operating income from total
15 passenger and total freight service, as reported to the
16 Interstate Commerce Commission, in the case of
17 transportation by railroad, and

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

21 (2) Such business income derived from transportation
22 by pipeline shall be apportioned to this State by
23 multiplying such income by a fraction, the numerator of
24 which is the revenue miles of the person in this State, and
25 the denominator of which is the revenue miles of the person
26 everywhere. For the purposes of this paragraph, a revenue
27 mile is the transportation by pipeline of 1 barrel of oil,
28 1,000 cubic feet of gas, or of any specified quantity of
29 any other substance, the distance of 1 mile for a
30 consideration.

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

1 (f) Alternative allocation. If the allocation and
2 apportionment provisions of subsections (a) through (e) and of
3 subsection (h) do not fairly represent the extent of a person's
4 business activity in this State, the person may petition for,
5 or the Director may require, in respect of all or any part of
6 the person's business activity, if reasonable:

7 (1) Separate accounting;

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

9 (3) The inclusion of one or more additional factors
10 which will fairly represent the person's business
11 activities in this State; or

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

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

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

20 (1) for tax years ending on or after December 31, 1998
21 and before December 31, 1999, 16 2/3% of the property
22 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
23 the sales factor;

24 (2) for tax years ending on or after December 31, 1999
25 and before December 31, 2000, 8 1/3% of the property factor
26 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales
27 factor;

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

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

1 (Source: P.A. 90-562, eff. 12-16-97; 90-613, eff. 7-9-98;
2 91-541, eff. 8-13-99.)

3 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

4 Sec. 601. Payment on Due Date of Return.

5 (a) In general. Every taxpayer required to file a return
6 under this Act shall, without assessment, notice or demand, pay
7 any tax due thereon to the Department, at the place fixed for
8 filing, on or before the date fixed for filing such return
9 (determined without regard to any extension of time for filing
10 the return) pursuant to regulations prescribed by the
11 Department. If, however, the due date for payment of a
12 taxpayer's federal income tax liability for a tax year (as
13 provided in the Internal Revenue Code or by Treasury
14 regulation, or as extended by the Internal Revenue Service) is
15 later than the date fixed for filing the taxpayer's Illinois
16 income tax return for that tax year, the Department may, by
17 rule, prescribe a due date for payment that is not later than
18 the due date for payment of the taxpayer's federal income tax
19 liability. For purposes of the Illinois Administrative
20 Procedure Act, the adoption of rules to prescribe a later due
21 date for payment shall be deemed an emergency and necessary for
22 the public interest, safety, and welfare.

23 (b) Amount payable. In making payment as provided in this
24 section there shall remain payable only the balance of such tax
25 remaining due after giving effect to the following:

26 (1) Withheld tax. Any amount withheld during any
27 calendar year pursuant to Article 7 from compensation paid
28 to a taxpayer shall be deemed to have been paid on account
29 of any tax imposed by subsections 201(a) and (b) of this
30 Act on such taxpayer for his taxable year beginning in such
31 calendar year. If more than one taxable year begins in a
32 calendar year, such amount shall be deemed to have been
33 paid on account of such tax for the last taxable year so
34 beginning.

35 (2) Estimated and tentative tax payments. Any amount of

1 estimated tax paid by a taxpayer pursuant to Article 8 for
2 a taxable year shall be deemed to have been paid on account
3 of the tax imposed by this Act for such taxable year.

4 (3) Foreign tax. The aggregate amount of tax which is
5 imposed upon or measured by income and which is paid by a
6 resident for a taxable year to another state or states on
7 income which is also subject to the tax imposed by
8 subsections 201(a) and (b) of this Act shall be credited
9 against the tax imposed by subsections 201(a) and (b)
10 otherwise due under this Act for such taxable year. The
11 aggregate credit provided under this paragraph shall not
12 exceed that amount which bears the same ratio to the tax
13 imposed by subsections 201(a) and (b) otherwise due under
14 this Act as the amount of the taxpayer's base income
15 subject to tax both by such other state or states and by
16 this State bears to his total base income subject to tax by
17 this State for the taxable year. ~~For purposes of this~~
18 ~~subsection, no compensation received by a resident which~~
19 ~~qualifies as compensation paid in this State as determined~~
20 ~~under Section 304(a)(2)(B) shall be considered income~~
21 ~~subject to tax by another state or states.~~ The credit
22 provided by this paragraph shall not be allowed if any
23 creditable tax was deducted in determining base income for
24 the taxable year. Any person claiming such credit shall
25 attach a statement in support thereof and shall notify the
26 Director of any refund or reductions in the amount of tax
27 claimed as a credit hereunder all in such manner and at
28 such time as the Department shall by regulations prescribe.

29 (4) Accumulation and capital gain distributions. If
30 the net income of a taxpayer includes amounts included in
31 his base income by reason of Section 668 or 669 of the
32 Internal Revenue Code (relating to accumulation and
33 capital gain distributions by a trust, respectively), the
34 tax imposed on such taxpayer by this Act shall be credited
35 with his pro rata portion of the taxes imposed by this Act
36 on such trust for preceding taxable years which would not

1 have been payable for such preceding years if the trust had
2 in fact made distributions to its beneficiaries at the
3 times and in the amounts specified in Sections 666 and 669
4 of the Internal Revenue Code. The credit provided by this
5 paragraph shall not reduce the tax otherwise due from the
6 taxpayer to an amount less than that which would be due if
7 the amounts included by reason of Sections 668 and 669 of
8 the Internal Revenue Code were excluded from his base
9 income.

10 (c) Cross reference. For application against tax due of
11 overpayments of tax for a prior year, see Section 909.

12 (Source: P.A. 92-826, eff. 8-21-02.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.