

HB0310



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0310

Introduced 1/19/2005, by Rep. Robert S. Molaro

SYNOPSIS AS INTRODUCED:

35 ILCS 5/304
35 ILCS 5/601

from Ch. 120, par. 3-304
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.

LRB094 05254 BDD 35296 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 304 and 601 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 by
23 this Section, persons other than residents who derive business
24 income from this State and one or more other states shall
25 compute their apportionment factor by weighting their
26 property, payroll, and sales factors as provided in subsection
27 (h) of this Section.

28 (1) Property factor.

29 (A) The property factor is a fraction, the numerator of
30 which is the average value of the person's real and
31 tangible personal property owned or rented and used in the
32 trade or business in this State during the taxable year and

1 the denominator of which is the average value of all the
2 person's real and tangible personal property owned or
3 rented and used in the trade or business during the taxable
4 year.

5 (B) Property owned by the person is valued at its
6 original cost. Property rented by the person is valued at 8
7 times the net annual rental rate. Net annual rental rate is
8 the annual rental rate paid by the person less any annual
9 rental rate received by the person from sub-rentals.

10 (C) The average value of property shall be determined
11 by averaging the values at the beginning and ending of the
12 taxable year but the Director may require the averaging of
13 monthly values during the taxable year if reasonably
14 required to reflect properly the average value of the
15 person's property.

16 (2) Payroll factor.

17 (A) The payroll factor is a fraction, the numerator of
18 which is the total amount paid in this State during the
19 taxable year by the person for compensation, and the
20 denominator of which is the total compensation paid
21 everywhere during the taxable year.

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

23 (i) The individual's service is performed entirely
24 within this State;

25 (ii) The individual's service is performed both
26 within and without this State, but the service
27 performed without this State is incidental to the
28 individual's service performed within this State; or

29 (iii) Some of the service is performed within this
30 State and either the base of operations, or if there is
31 no base of operations, the place from which the service
32 is directed or controlled is within this State, or the
33 base of operations or the place from which the service
34 is directed or controlled is not in any state in which
35 some part of the service is performed, but the
36 individual's residence is in this State.

1 (iv) Compensation paid to nonresident professional
2 athletes.

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

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

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

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

25 (2) The term "member of a professional
26 athletic team" includes those employees who are
27 active players, players on the disabled list, and
28 any other persons required to travel and who travel
29 with and perform services on behalf of a
30 professional athletic team on a regular basis.
31 This includes, but is not limited to, coaches,
32 managers, and trainers.

33 (3) Except as provided in items (C) and (D) of
34 this subpart (3), the term "duty days" means all
35 days during the taxable year from the beginning of
36 the professional athletic team's official

1 pre-season training period through the last game
2 in which the team competes or is scheduled to
3 compete. Duty days shall be counted for the year in
4 which they occur, including where a team's
5 official pre-season training period through the
6 last game in which the team competes or is
7 scheduled to compete, occurs during more than one
8 tax year.

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

19 (B) Also included in duty days are game
20 days, practice days, days spent at team
21 meetings, promotional caravans, preseason
22 training camps, and days served with the team
23 through all post-season games in which the team
24 competes or is scheduled to compete.

25 (C) Duty days for any person who joins a
26 team during the period from the beginning of
27 the professional athletic team's official
28 pre-season training period through the last
29 game in which the team competes, or is
30 scheduled to compete, shall begin on the day
31 that person joins the team. Conversely, duty
32 days for any person who leaves a team during
33 this period shall end on the day that person
34 leaves the team. Where a person switches teams
35 during a taxable year, a separate duty-day
36 calculation shall be made for the period the

1 person was with each team.

2 (D) Days for which a member of a
3 professional athletic team is not compensated
4 and is not performing services for the team in
5 any manner, including days when such member of
6 a professional athletic team has been
7 suspended without pay and prohibited from
8 performing any services for the team, shall not
9 be treated as duty days.

10 (E) Days for which a member of a
11 professional athletic team is on the disabled
12 list and does not conduct rehabilitation
13 activities at facilities of the team, and is
14 not otherwise performing services for the team
15 in Illinois, shall not be considered duty days
16 spent in this State. All days on the disabled
17 list, however, are considered to be included in
18 total duty days spent both within and without
19 this State.

20 (4) The term "total compensation for services
21 performed as a member of a professional athletic
22 team" means the total compensation received during
23 the taxable year for services performed:

24 (A) from the beginning of the official
25 preseason training period through the last
26 game in which the team competes or is scheduled
27 to compete during that taxable year; and

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

32 This compensation shall include, but is not
33 limited to, salaries, wages, bonuses as described
34 in this subpart, and any other type of compensation
35 paid during the taxable year to a member of a
36 professional athletic team for services performed

1 in that year. This compensation does not include
2 strike benefits, severance pay, termination pay,
3 contract or option year buy-out payments,
4 expansion or relocation payments, or any other
5 payments not related to services performed for the
6 team.

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

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.)