

1 AN ACT concerning revenue.

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

4 ARTICLE 1. SHORT TITLE; PURPOSE

5 Section 1-1. Short Title. This Act may be cited as the
6 FY2008 Budget Implementation (Revenue) Act.

7 Section 1-5. Purpose. It is the purpose of this Act to make
8 changes in State programs concerning revenue that are necessary
9 to implement the FY2008 Budget.

10 ARTICLE 5. FRANCHISE TAX AND LICENSE FEE AMNESTY ACT OF 2007

11 Section 5-1. Short title. This Article may be cited as the
12 Franchise Tax and License Fee Amnesty Act of 2007. References
13 in this Article to "this Act" mean this Article.

14 Section 5-5. Definitions. As used in this Act:

15 "Secretary" means the Illinois Secretary of State.

16 "Rules" means any rules adopted or forms prescribed by the
17 Secretary.

18 "Taxable period" means any period of time for which any
19 franchise tax is imposed by and owed to the State of Illinois

1 by any domestic corporation or any license fee is imposed by
2 and owed to the State of Illinois by any foreign corporation.

3 "Taxpayer" means any domestic or foreign corporation,
4 subject to franchise tax or license fee imposed by Article XV
5 of the Business Corporation Act of 1983.

6 Section 5-10. Amnesty program. The Secretary shall
7 establish an amnesty program for all taxpayers owing any
8 franchise tax or license fee imposed by Article XV of the
9 Business Corporation Act of 1983. The amnesty program shall be
10 for a period from February 1, 2008 through March 15, 2008. The
11 amnesty program shall provide that, upon payment by a taxpayer
12 of all franchise taxes and license fees due from that taxpayer
13 to the State of Illinois for any taxable period, the Secretary
14 shall abate and not seek to collect any interest or penalties
15 that may be applicable, and the Secretary shall not seek civil
16 or criminal prosecution for any taxpayer for the period of time
17 for which amnesty has been granted to the taxpayer. Failure to
18 pay all taxes due to the State for a taxable period shall not
19 invalidate any amnesty granted under this Act with respect to
20 the taxes paid pursuant to the amnesty program. Amnesty shall
21 be granted only if all amnesty conditions are satisfied by the
22 taxpayer. Amnesty shall not be granted to taxpayers who are a
23 party to any criminal investigation or to any civil or criminal
24 litigation that is pending in any circuit court or appellate
25 court or the Supreme Court of this State for nonpayment,

1 delinquency, or fraud in relation to any franchise tax or
2 license fee imposed by Article XV of the Business Corporation
3 Act of 1983. Voluntary payments made under this Act shall be
4 made by cash, check, guaranteed remittance, or ACH debit. The
5 Secretary shall adopt rules as necessary to implement the
6 provisions of this Act. Except as otherwise provided in this
7 Section, all money collected under this Act that would
8 otherwise be deposited into the General Revenue Fund shall be
9 deposited into the General Revenue Fund. Two percent of all
10 money collected under this Act shall be deposited by the State
11 Treasurer into the Department of Business Services Special
12 Operations Fund and, subject to appropriation, shall be used by
13 the Secretary to cover costs associated with the administration
14 of this Act.

15 Section 5-90. The Business Corporation Act of 1983 is
16 amended by changing Sections 15.90 and 16.05 as follows:

17 (805 ILCS 5/15.90) (from Ch. 32, par. 15.90)

18 Sec. 15.90. Statute of limitations.

19 (a) Except as otherwise provided in this Section and
20 notwithstanding anything to the contrary contained in any other
21 Section of this Act, no domestic corporation or foreign
22 corporation shall be obligated to pay any annual franchise tax,
23 fee, or penalty or interest thereon imposed under this Act, nor
24 shall any administrative or judicial sanction (including

1 dissolution) be imposed or enforced nor access to the courts of
2 this State be denied based upon nonpayment thereof more than 7
3 years after the date of filing the annual report with respect
4 to the period during which the obligation for the tax, fee,
5 penalty or interest arose, unless (1) within that 7 year period
6 the Secretary of State sends a written notice to the
7 corporation to the effect that (A) administrative or judicial
8 action to dissolve the corporation or revoke its certificate of
9 authority for nonpayment of a tax, fee, penalty or interest has
10 been commenced; or (B) the corporation has submitted a report
11 but has failed to pay a tax, fee, penalty or interest required
12 to be paid therewith; or (C) a report with respect to an event
13 or action giving rise to an obligation to pay a tax, fee,
14 penalty or interest is required but has not been filed, or has
15 been filed and is in error or incomplete; or (2) the annual
16 report by the corporation was filed with fraudulent intent to
17 evade taxes payable under this Act. A corporation nonetheless
18 shall be required to pay all taxes that would have been payable
19 during the most recent 7 year period due to a previously
20 unreported increase in paid-in capital that occurred prior to
21 that 7 year period and interest and penalties thereon for that
22 period, except that with respect to any corporation that
23 participates in the Franchise Tax and License Fee Amnesty Act
24 of 2007, the corporation shall be only required to pay all
25 taxes that would have been payable during the most recent 4
26 year period due to a previously unreported increase in paid-in

1 capital that occurred prior to that 7 year period.

2 (b) If within 2 years following a change in control of a
3 corporation the corporation voluntarily pays in good faith all
4 known obligations of the corporation imposed by this Article 15
5 with respect to reports that were required to have been filed
6 since the beginning of the 7 year period ending on the
7 effective date of the change in control, no action shall be
8 taken to enforce or collect obligations of that corporation
9 imposed by this Article 15 with respect to reports that were
10 required to have been filed prior to that 7 year period
11 regardless of whether the limitation period set forth in
12 subsection (a) is otherwise applicable. For purposes of this
13 subsection (b), a change in control means a transaction, or a
14 series of transactions consummated within a period of 180
15 consecutive days, as a result of which a person which owned
16 less than 10% of the shares having the power to elect directors
17 of the corporation acquires shares such that the person becomes
18 the holder of 80% or more of the shares having such power. For
19 purposes of this subsection (b) a person means any natural
20 person, corporation, partnership, trust or other entity
21 together with all other persons controlled by, controlling or
22 under common control with such person.

23 (c) Except as otherwise provided in this Section and
24 notwithstanding anything to the contrary contained in any other
25 Section of this Act, no foreign corporation that has not
26 previously obtained a certificate of authority under this Act

1 shall, upon voluntary application for a certificate of
2 authority filed with the Secretary of State prior to January 1,
3 2001, be obligated to pay any tax, fee, penalty, or interest
4 imposed under this Act, nor shall any administrative or
5 judicial sanction be imposed or enforced based upon nonpayment
6 thereof with respect to a period during which the obligation
7 arose that is prior to January 1, 1993 unless (1) prior to
8 receipt of the application for a certificate of authority the
9 Secretary of State had sent written notice to the corporation
10 regarding its failure to obtain a certificate of authority, (2)
11 the corporation had submitted an application for a certificate
12 of authority previously but had failed to pay any tax, fee,
13 penalty or interest to be paid therewith, or (3) the
14 application for a certificate of authority was submitted by the
15 corporation with fraudulent intent to evade taxes payable under
16 this Act. A corporation nonetheless shall be required to pay
17 all taxes and fees due under this Act that would have been
18 payable since January 1, 1993 as a result of commencing the
19 transaction of its business in this State and interest thereon
20 for that period.

21 (Source: P.A. 90-421, eff. 1-1-98.)

22 (805 ILCS 5/16.05) (from Ch. 32, par. 16.05)

23 Sec. 16.05. Penalties and interest imposed upon
24 corporations.

25 (a) Each corporation, domestic or foreign, that fails or

1 refuses to file any annual report or report of cumulative
2 changes in paid-in capital and pay any franchise tax due
3 pursuant to the report prior to the first day of its
4 anniversary month or, in the case of a corporation which has
5 established an extended filing month, the extended filing month
6 of the corporation shall pay a penalty of 10% of the amount of
7 any delinquent franchise tax due for the report. No penalty
8 shall be imposed with respect to any amount of delinquent
9 franchise tax paid pursuant to the Franchise Tax and License
10 Fee Amnesty Act of 2007.

11 (b) Each corporation, domestic or foreign, that fails or
12 refuses to file a report of issuance of shares or increase in
13 paid-in capital within the time prescribed by this Act is
14 subject to a penalty on any obligation occurring prior to
15 January 1, 1991, and interest on those obligations on or after
16 January 1, 1991, for each calendar month or part of month that
17 it is delinquent in the amount of 1% of the amount of license
18 fees and franchise taxes provided by this Act to be paid on
19 account of the issuance of shares or increase in paid-in
20 capital. No penalty shall be imposed, or interest charged, with
21 respect to any amount of delinquent license fees and franchise
22 taxes paid pursuant to the Franchise Tax and License Fee
23 Amnesty Act of 2007.

24 (c) Each corporation, domestic or foreign, that fails or
25 refuses to file a report of cumulative changes in paid-in
26 capital or report following merger within the time prescribed

1 by this Act is subject to interest on or after January 1, 1992,
2 for each calendar month or part of month that it is delinquent,
3 in the amount of 1% of the amount of franchise taxes provided
4 by this Act to be paid on account of the issuance of shares or
5 increase in paid-in capital disclosed on the report of
6 cumulative changes in paid-in capital or report following
7 merger, or \$1, whichever is greater. No interest shall be
8 charged with respect to any amount of delinquent franchise tax
9 paid pursuant to the Franchise Tax and License Fee Amnesty Act
10 of 2007.

11 (d) If the annual franchise tax, or the supplemental annual
12 franchise tax for any 12-month period commencing July 1, 1968,
13 or July 1 of any subsequent year through June 30, 1983,
14 assessed in accordance with this Act, is not paid by July 31,
15 it is delinquent, and there is added a penalty prior to January
16 1, 1991, and interest on and after January 1, 1991, of 1% for
17 each month or part of month that it is delinquent commencing
18 with the month of August, or \$1, whichever is greater. No
19 penalty shall be imposed, or interest charged, with respect to
20 any amount of delinquent franchise taxes paid pursuant to the
21 Franchise Tax and License Fee Amnesty Act of 2007.

22 (e) If the supplemental annual franchise tax assessed in
23 accordance with the provisions of this Act for the 12-month
24 period commencing July 1, 1967, is not paid by September 30,
25 1967, it is delinquent, and there is added a penalty prior to
26 January 1, 1991, and interest on and after January 1, 1991, of

1 1% for each month or part of month that it is delinquent
2 commencing with the month of October, 1967. No penalty shall be
3 imposed, or interest charged, with respect to any amount of
4 delinquent franchise taxes paid pursuant to the Franchise Tax
5 and License Fee Amnesty Act of 2007.

6 (f) If any annual franchise tax for any period beginning on
7 or after July 1, 1983, is not paid by the time period herein
8 prescribed, it is delinquent and there is added a penalty prior
9 to January 1, 1991, and interest on and after January 1, 1991,
10 of 1% for each month or part of a month that it is delinquent
11 commencing with the anniversary month or in the case of a
12 corporation that has established an extended filing month, the
13 extended filing month, or \$1, whichever is greater. No penalty
14 shall be imposed, or interest charged, with respect to any
15 amount of delinquent franchise taxes paid pursuant to the
16 Franchise Tax and License Fee Amnesty Act of 2007.

17 (g) Any corporation, domestic or foreign, failing to pay
18 the prescribed fee for assumed corporate name renewal when due
19 and payable shall be given notice of nonpayment by the
20 Secretary of State by regular mail; and if the fee together
21 with a penalty fee of \$5 is not paid within 90 days after the
22 notice is mailed, the right to use the assumed name shall
23 cease.

24 (h) Any corporation which (i) puts forth any sign or
25 advertisement, assuming any name other than that by which it is
26 incorporated or otherwise authorized by law to act or (ii)

1 violates Section 3.25, shall be guilty of a Class C misdemeanor
2 and shall be deemed guilty of an additional offense for each
3 day it shall continue to so offend.

4 (i) Each corporation, domestic or foreign, that fails or
5 refuses (1) to file in the office of the recorder within the
6 time prescribed by this Act any document required by this Act
7 to be so filed, or (2) to answer truthfully and fully within
8 the time prescribed by this Act interrogatories propounded by
9 the Secretary of State in accordance with this Act, or (3) to
10 perform any other act required by this Act to be performed by
11 the corporation, is guilty of a Class C misdemeanor.

12 (j) Each corporation that fails or refuses to file articles
13 of revocation of dissolution within the time prescribed by this
14 Act is subject to a penalty for each calendar month or part of
15 the month that it is delinquent in the amount of \$50.

16 (Source: P.A. 91-464, eff. 1-1-00; 91-906, eff. 1-1-01.)

17 ARTICLE 10. AMENDATORY PROVISIONS

18 Section 10-5. The Illinois Income Tax Act is amended by
19 changing Sections 203, 205, 207, 304, 502, 711, 712, 713, 804,
20 911, and 1501 and by adding Section 709.5 as follows:

21 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

22 Sec. 203. Base income defined.

23 (a) Individuals.

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

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

8 (A) An amount equal to all amounts paid or accrued
9 to the taxpayer as interest or dividends during the
10 taxable year to the extent excluded from gross income
11 in the computation of adjusted gross income, except
12 stock dividends of qualified public utilities
13 described in Section 305(e) of the Internal Revenue
14 Code;

15 (B) An amount equal to the amount of tax imposed by
16 this Act to the extent deducted from gross income in
17 the computation of adjusted gross income for the
18 taxable year;

19 (C) An amount equal to the amount received during
20 the taxable year as a recovery or refund of real
21 property taxes paid with respect to the taxpayer's
22 principal residence under the Revenue Act of 1939 and
23 for which a deduction was previously taken under
24 subparagraph (L) of this paragraph (2) prior to July 1,
25 1991, the retrospective application date of Article 4
26 of Public Act 87-17. In the case of multi-unit or

1 multi-use structures and farm dwellings, the taxes on
2 the taxpayer's principal residence shall be that
3 portion of the total taxes for the entire property
4 which is attributable to such principal residence;

5 (D) An amount equal to the amount of the capital
6 gain deduction allowable under the Internal Revenue
7 Code, to the extent deducted from gross income in the
8 computation of adjusted gross income;

9 (D-5) An amount, to the extent not included in
10 adjusted gross income, equal to the amount of money
11 withdrawn by the taxpayer in the taxable year from a
12 medical care savings account and the interest earned on
13 the account in the taxable year of a withdrawal
14 pursuant to subsection (b) of Section 20 of the Medical
15 Care Savings Account Act or subsection (b) of Section
16 20 of the Medical Care Savings Account Act of 2000;

17 (D-10) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the individual deducted in computing adjusted
20 gross income and for which the individual claims a
21 credit under subsection (l) of Section 201;

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

1 (D-16) If the taxpayer sells, transfers, abandons,
2 or otherwise disposes of property for which the
3 taxpayer was required in any taxable year to make an
4 addition modification under subparagraph (D-15), then
5 an amount equal to the aggregate amount of the
6 deductions taken in all taxable years under
7 subparagraph (Z) with respect to that property.

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

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

18 (D-17) ~~An~~ ~~For taxable years ending on or after~~
19 ~~December 31, 2004,~~ an amount equal to the amount
20 otherwise allowed as a deduction in computing base
21 income for interest paid, accrued, or incurred,
22 directly or indirectly, (i) for taxable years ending on
23 or after December 31, 2004, to a foreign person who
24 would be a member of the same unitary business group
25 but for the fact that foreign person's business
26 activity outside the United States is 80% or more of

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

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

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

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

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

1 unreasonable; or if the taxpayer and the Director
2 agree in writing to the application or use of an
3 alternative method of apportionment under Section
4 304(f).

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

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

1 the person is prohibited under Section 1501(a)(27)
2 from being included in the unitary business group
3 because he or she is ordinarily required to apportion
4 business income under different subsections of Section
5 304. The addition modification required by this
6 subparagraph shall be reduced to the extent that
7 dividends were included in base income of the unitary
8 group for the same taxable year and received by the
9 taxpayer or by a member of the taxpayer's unitary
10 business group (including amounts included in gross
11 income under Sections 951 through 964 of the Internal
12 Revenue Code and amounts included in gross income under
13 Section 78 of the Internal Revenue Code) with respect
14 to the stock of the same person to whom the intangible
15 expenses and costs were directly or indirectly paid,
16 incurred, or accrued. The preceding sentence does not
17 apply to the extent that the same dividends caused a
18 reduction to the addition modification required under
19 Section 203(a)(2)(D-17) of this Act. As used in this
20 subparagraph, the term "intangible expenses and costs"
21 includes (1) expenses, losses, and costs for, or
22 related to, the direct or indirect acquisition, use,
23 maintenance or management, ownership, sale, exchange,
24 or any other disposition of intangible property; (2)
25 losses incurred, directly or indirectly, from
26 factoring transactions or discounting transactions;

1 (3) royalty, patent, technical, and copyright fees;
2 (4) licensing fees; and (5) other similar expenses and
3 costs. For purposes of this subparagraph, "intangible
4 property" includes patents, patent applications, trade
5 names, trademarks, service marks, copyrights, mask
6 works, trade secrets, and similar types of intangible
7 assets.

8 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the
26 intangible expense or cost between the

1 taxpayer and the foreign person did not have as
2 a principal purpose the avoidance of Illinois
3 income tax, and is paid pursuant to a contract
4 or agreement that reflects arm's-length terms;
5 or

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

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

24 (D-19) For taxable years ending on or after
25 December 31, 2008, an amount equal to the amount of
26 insurance premium expenses and costs otherwise allowed

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

24 (D-20) For taxable years beginning on or after
25 January 1, 2002, in the case of a distribution from a
26 qualified tuition program under Section 529 of the

1 Internal Revenue Code, other than (i) a distribution
2 from a College Savings Pool created under Section 16.5
3 of the State Treasurer Act or (ii) a distribution from
4 the Illinois Prepaid Tuition Trust Fund, an amount
5 equal to the amount excluded from gross income under
6 Section 529(c)(3)(B);

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

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

1 resident by reason of being a member of any component
2 of the Armed Forces of the United States and in respect
3 of any compensation paid or accrued to a resident who
4 as a governmental employee was a prisoner of war or
5 missing in action, and in respect of any compensation
6 paid to a resident in 2001 or thereafter by reason of
7 being a member of the Illinois National Guard. The
8 provisions of this amendatory Act of the 92nd General
9 Assembly are exempt from the provisions of Section 250;

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

21 (G) The valuation limitation amount;

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

25 (I) An amount equal to all amounts included in such
26 total pursuant to the provisions of Section 111 of the

1 Internal Revenue Code as a recovery of items previously
2 deducted from adjusted gross income in the computation
3 of taxable income;

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

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

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

1 Revenue Code;

2 (M) With the exception of any amounts subtracted
3 under subparagraph (N), an amount equal to the sum of
4 all amounts disallowed as deductions by (i) Sections
5 171(a) (2), and 265(2) of the Internal Revenue Code of
6 1954, as now or hereafter amended, and all amounts of
7 expenses allocable to interest and disallowed as
8 deductions by Section 265(1) of the Internal Revenue
9 Code of 1954, as now or hereafter amended; and (ii) for
10 taxable years ending on or after August 13, 1999,
11 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
12 the Internal Revenue Code; the provisions of this
13 subparagraph are exempt from the provisions of Section
14 250;

15 (N) An amount equal to all amounts included in such
16 total which are exempt from taxation by this State
17 either by reason of its statutes or Constitution or by
18 reason of the Constitution, treaties or statutes of the
19 United States; provided that, in the case of any
20 statute of this State or, for taxable years ending on
21 or after December 31, 2008, of the United States, any
22 treaty of the United States, the Illinois
23 Constitution, or the United States Constitution that
24 exempts income derived from bonds or other obligations
25 from the tax imposed under this Act, the amount
26 exempted shall be the income ~~interest~~ net of bond

1 premium amortization, and, for taxable years ending on
2 or after December 31, 2008, interest expense incurred
3 on indebtedness to carry the bond or other obligation,
4 expenses incurred in producing the income to be
5 deducted, and all other related expenses. The amount of
6 expenses to be taken into account under this provision
7 may not exceed the amount of income that is exempted;

8 (O) An amount equal to any contribution made to a
9 job training project established pursuant to the Tax
10 Increment Allocation Redevelopment Act;

11 (P) An amount equal to the amount of the deduction
12 used to compute the federal income tax credit for
13 restoration of substantial amounts held under claim of
14 right for the taxable year pursuant to Section 1341 of
15 the Internal Revenue Code of 1986;

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

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

23 (S) An amount, to the extent included in adjusted
24 gross income, equal to the amount of a contribution
25 made in the taxable year on behalf of the taxpayer to a
26 medical care savings account established under the

1 Medical Care Savings Account Act or the Medical Care
2 Savings Account Act of 2000 to the extent the
3 contribution is accepted by the account administrator
4 as provided in that Act;

5 (T) An amount, to the extent included in adjusted
6 gross income, equal to the amount of interest earned in
7 the taxable year on a medical care savings account
8 established under the Medical Care Savings Account Act
9 or the Medical Care Savings Account Act of 2000 on
10 behalf of the taxpayer, other than interest added
11 pursuant to item (D-5) of this paragraph (2);

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

18 (V) Beginning with tax years ending on or after
19 December 31, 1995 and ending with tax years ending on
20 or before December 31, 2004, an amount equal to the
21 amount paid by a taxpayer who is a self-employed
22 taxpayer, a partner of a partnership, or a shareholder
23 in a Subchapter S corporation for health insurance or
24 long-term care insurance for that taxpayer or that
25 taxpayer's spouse or dependents, to the extent that the
26 amount paid for that health insurance or long-term care

1 insurance may be deducted under Section 213 of the
2 Internal Revenue Code of 1986, has not been deducted on
3 the federal income tax return of the taxpayer, and does
4 not exceed the taxable income attributable to that
5 taxpayer's income, self-employment income, or
6 Subchapter S corporation income; except that no
7 deduction shall be allowed under this item (V) if the
8 taxpayer is eligible to participate in any health
9 insurance or long-term care insurance plan of an
10 employer of the taxpayer or the taxpayer's spouse. The
11 amount of the health insurance and long-term care
12 insurance subtracted under this item (V) shall be
13 determined by multiplying total health insurance and
14 long-term care insurance premiums paid by the taxpayer
15 times a number that represents the fractional
16 percentage of eligible medical expenses under Section
17 213 of the Internal Revenue Code of 1986 not actually
18 deducted on the taxpayer's federal income tax return;

19 (W) For taxable years beginning on or after January
20 1, 1998, all amounts included in the taxpayer's federal
21 gross income in the taxable year from amounts converted
22 from a regular IRA to a Roth IRA. This paragraph is
23 exempt from the provisions of Section 250;

24 (X) For taxable year 1999 and thereafter, an amount
25 equal to the amount of any (i) distributions, to the
26 extent includible in gross income for federal income

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

1 not affected by the inclusion of items (i) and (ii) of
2 this paragraph in gross income for federal income tax
3 purposes. This paragraph is exempt from the provisions
4 of Section 250;

5 (Y) For taxable years beginning on or after January
6 1, 2002 and ending on or before December 31, 2004,
7 moneys contributed in the taxable year to a College
8 Savings Pool account under Section 16.5 of the State
9 Treasurer Act, except that amounts excluded from gross
10 income under Section 529(c)(3)(C)(i) of the Internal
11 Revenue Code shall not be considered moneys
12 contributed under this subparagraph (Y). For taxable
13 years beginning on or after January 1, 2005, a maximum
14 of \$10,000 contributed in the taxable year to (i) a
15 College Savings Pool account under Section 16.5 of the
16 State Treasurer Act or (ii) the Illinois Prepaid
17 Tuition Trust Fund, except that amounts excluded from
18 gross income under Section 529(c)(3)(C)(i) of the
19 Internal Revenue Code shall not be considered moneys
20 contributed under this subparagraph (Y). This
21 subparagraph (Y) is exempt from the provisions of
22 Section 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 group but for the fact that the person is prohibited
2 under Section 1501(a)(27) from being included in the
3 unitary business group because he or she is ordinarily
4 required to apportion business income under different
5 subsections of Section 304, but not to exceed the
6 addition modification required to be made for the same
7 taxable year under Section 203(a)(2)(D-17) for
8 interest paid, accrued, or incurred, directly or
9 indirectly, to the same ~~foreign~~ person; ~~and~~

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

1 intangible expenses and costs paid, accrued, or
2 incurred, directly or indirectly, to the same foreign
3 person; ~~and-~~

4 (FF) An amount equal to the income from insurance
5 premiums taken into account for the taxable year (net
6 of the deductions allocable thereto) with respect to
7 transactions with a person who would be a member of the
8 same unitary business group but for the fact that the
9 person is prohibited under Section 1501(a)(27) from
10 being included in the unitary business group because he
11 or she is ordinarily required to apportion business
12 income under different subsections of Section 304, but
13 not to exceed the addition modification required to be
14 made for the same taxable year under Section
15 203(a)(2)(D-18) for intangible expenses and costs
16 paid, accrued, or incurred, directly or indirectly, to
17 the same person.

18 (b) Corporations.

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

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

25 (A) An amount equal to all amounts paid or accrued

1 to the taxpayer as interest and all distributions
2 received from regulated investment companies during
3 the taxable year to the extent excluded from gross
4 income in the computation of taxable income;

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

8 (C) In the case of a regulated investment company,
9 an amount equal to the excess of (i) the net long-term
10 capital gain for the taxable year, over (ii) the amount
11 of the capital gain dividends designated as such in
12 accordance with Section 852(b)(3)(C) of the Internal
13 Revenue Code and any amount designated under Section
14 852(b)(3)(D) of the Internal Revenue Code,
15 attributable to the taxable year (this amendatory Act
16 of 1995 (Public Act 89-89) is declarative of existing
17 law and is not a new enactment);

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

22 (E) For taxable years in which a net operating loss
23 carryback or carryforward from a taxable year ending
24 prior to December 31, 1986 is an element of taxable
25 income under paragraph (1) of subsection (e) or
26 subparagraph (E) of paragraph (2) of subsection (e),

1 the amount by which addition modifications other than
2 those provided by this subparagraph (E) exceeded
3 subtraction modifications in such earlier taxable
4 year, with the following limitations applied in the
5 order that they are listed:

6 (i) the addition modification relating to the
7 net operating loss carried back or forward to the
8 taxable year from any taxable year ending prior to
9 December 31, 1986 shall be reduced by the amount of
10 addition modification under this subparagraph (E)
11 which related to that net operating loss and which
12 was taken into account in calculating the base
13 income of an earlier taxable year, and

14 (ii) the addition modification relating to the
15 net operating loss carried back or forward to the
16 taxable year from any taxable year ending prior to
17 December 31, 1986 shall not exceed the amount of
18 such carryback or carryforward;

19 For taxable years in which there is a net operating
20 loss carryback or carryforward from more than one other
21 taxable year ending prior to December 31, 1986, the
22 addition modification provided in this subparagraph
23 (E) shall be the sum of the amounts computed
24 independently under the preceding provisions of this
25 subparagraph (E) for each such taxable year;

26 (E-5) For taxable years ending after December 31,

1 1997, an amount equal to any eligible remediation costs
2 that the corporation deducted in computing adjusted
3 gross income and for which the corporation claims a
4 credit under subsection (l) of Section 201;

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

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

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

24 The taxpayer is required to make the addition
25 modification under this subparagraph only once with
26 respect to any one piece of property;

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

1 same person to whom the interest was paid, accrued, or
2 incurred.

3 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) the taxpayer can establish, based on

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

6 (iv) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f).

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

23 (E-13) ~~An~~ ~~For taxable years ending on or after~~
24 ~~December 31, 2004,~~ an amount equal to the amount of
25 intangible expenses and costs otherwise allowed as a
26 deduction in computing base income, and that were paid,

1 accrued, or incurred, directly or indirectly, (i) for
2 taxable years ending on or after December 31, 2004, to
3 a foreign person who would be a member of the same
4 unitary business group but for the fact that the
5 foreign person's business activity outside the United
6 States is 80% or more of that person's total business
7 activity and (ii) for taxable years ending on or after
8 December 31, 2008, to a person who would be a member of
9 the same unitary business group but for the fact that
10 the person is prohibited under Section 1501(a)(27)
11 from being included in the unitary business group
12 because he or she is ordinarily required to apportion
13 business income under different subsections of Section
14 304. The addition modification required by this
15 subparagraph shall be reduced to the extent that
16 dividends were included in base income of the unitary
17 group for the same taxable year and received by the
18 taxpayer or by a member of the taxpayer's unitary
19 business group (including amounts included in gross
20 income pursuant to Sections 951 through 964 of the
21 Internal Revenue Code and amounts included in gross
22 income under Section 78 of the Internal Revenue Code)
23 with respect to the stock of the same person to whom
24 the intangible expenses and costs were directly or
25 indirectly paid, incurred, or accrued. The preceding
26 sentence shall not apply to the extent that the same

1 dividends caused a reduction to the addition
2 modification required under Section 203(b)(2)(E-12) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes (1) expenses,
5 losses, and costs for, or related to, the direct or
6 indirect acquisition, use, maintenance or management,
7 ownership, sale, exchange, or any other disposition of
8 intangible property; (2) losses incurred, directly or
9 indirectly, from factoring transactions or discounting
10 transactions; (3) royalty, patent, technical, and
11 copyright fees; (4) licensing fees; and (5) other
12 similar expenses and costs. For purposes of this
13 subparagraph, "intangible property" includes patents,
14 patent applications, trade names, trademarks, service
15 marks, copyrights, mask works, trade secrets, and
16 similar types of intangible assets.

17 This paragraph shall not apply to the following:

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

25 (ii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or

1 indirectly, if the taxpayer can establish, based
2 on a preponderance of the evidence, both of the
3 following:

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

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

15 (iii) any item of intangible expense or cost
16 paid, accrued, or incurred, directly or
17 indirectly, from a transaction with a foreign
18 person if the taxpayer establishes by clear and
19 convincing evidence, that the adjustments are
20 unreasonable; or if the taxpayer and the Director
21 agree in writing to the application or use of an
22 alternative method of apportionment under Section
23 304(f);

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

1 any tax year beginning after the effective date of
2 this amendment provided such adjustment is made
3 pursuant to regulation adopted by the Department
4 and such regulations provide methods and standards
5 by which the Department will utilize its authority
6 under Section 404 of this Act;

7 (E-14) For taxable years ending on or after
8 December 31, 2008, an amount equal to the amount of
9 insurance premium expenses and costs otherwise allowed
10 as a deduction in computing base income, and that were
11 paid, accrued, or incurred, directly or indirectly, to
12 a person who would be a member of the same unitary
13 business group but for the fact that the person is
14 prohibited under Section 1501(a)(27) from being
15 included in the unitary business group because he or
16 she is ordinarily required to apportion business
17 income under different subsections of Section 304. The
18 addition modification required by this subparagraph
19 shall be reduced to the extent that dividends were
20 included in base income of the unitary group for the
21 same taxable year and received by the taxpayer or by a
22 member of the taxpayer's unitary business group
23 (including amounts included in gross income under
24 Sections 951 through 964 of the Internal Revenue Code
25 and amounts included in gross income under Section 78
26 of the Internal Revenue Code) with respect to the stock

1 of the same person to whom the intangible expenses and
2 costs were directly or indirectly paid, incurred, or
3 accrued. The preceding sentence does not apply to the
4 extent that the same dividends caused a reduction to
5 the addition modification required under Section
6 203(a) (2) (D-17) of this Act;

7 (E-15) For taxable years beginning after December
8 31, 2008, any deduction for dividends paid to a
9 corporation by a captive real estate trust that is
10 allowed to a real estate investment trust under Section
11 857(b) (2) (B) of the Internal Revenue Code for
12 dividends paid;

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

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

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

20 (H) In the case of a regulated investment company,
21 an amount equal to the amount of exempt interest
22 dividends as defined in subsection (b) (5) of Section
23 852 of the Internal Revenue Code, paid to shareholders
24 for the taxable year;

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

1 all amounts disallowed as deductions by (i) Sections
2 171(a) (2), and 265(a)(2) and amounts disallowed as
3 interest expense by Section 291(a)(3) of the Internal
4 Revenue Code, as now or hereafter amended, and all
5 amounts of expenses allocable to interest and
6 disallowed as deductions by Section 265(a)(1) of the
7 Internal Revenue Code, as now or hereafter amended; and
8 (ii) for taxable years ending on or after August 13,
9 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
10 832(b)(5)(B)(i) of the Internal Revenue Code; the
11 provisions of this subparagraph are exempt from the
12 provisions of Section 250;

13 (J) An amount equal to all amounts included in such
14 total which are exempt from taxation by this State
15 either by reason of its statutes or Constitution or by
16 reason of the Constitution, treaties or statutes of the
17 United States; provided that, in the case of any
18 statute of this State or, for taxable years ending on
19 or after December 31, 2008, of the United States, any
20 treaty of the United States, the Illinois
21 Constitution, or the United States Constitution that
22 exempts income derived from bonds or other obligations
23 from the tax imposed under this Act, the amount
24 exempted shall be the income ~~interest~~ net of bond
25 premium amortization, and, for taxable years ending on
26 or after December 31, 2008, interest expense incurred

1 on indebtedness to carry the bond or other obligation,
2 expenses incurred in producing the income to be
3 deducted, and all other related expenses. The amount of
4 expenses to be taken into account under this provision
5 may not exceed the amount of income that is exempted;

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

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

25 (M) For any taxpayer that is a financial
26 organization within the meaning of Section 304(c) of

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

23 (M-1) For any taxpayer that is a financial
24 organization within the meaning of Section 304(c) of
25 this Act, an amount included in such total as interest
26 income from a loan or loans made by such taxpayer to a

1 borrower, to the extent that such a loan is secured by
2 property which is eligible for the High Impact Business
3 Investment Credit. To determine the portion of a loan
4 or loans that is secured by property eligible for a
5 Section 201(h) investment credit to the borrower, the
6 entire principal amount of the loan or loans between
7 the taxpayer and the borrower should be divided into
8 the basis of the Section 201(h) investment credit
9 property which secures the loan or loans, using for
10 this purpose the original basis of such property on the
11 date that it was placed in service in a federally
12 designated Foreign Trade Zone or Sub-Zone located in
13 Illinois. No taxpayer that is eligible for the
14 deduction provided in subparagraph (M) of paragraph
15 (2) of this subsection shall be eligible for the
16 deduction provided under this subparagraph (M-1). The
17 subtraction modification available to taxpayers in any
18 year under this subsection shall be that portion of the
19 total interest paid by the borrower with respect to
20 such loan attributable to the eligible property as
21 calculated under the previous sentence;

22 (N) Two times any contribution made during the
23 taxable year to a designated zone organization to the
24 extent that the contribution (i) qualifies as a
25 charitable contribution under subsection (c) of
26 Section 170 of the Internal Revenue Code and (ii) must,

1 by its terms, be used for a project approved by the
2 Department of Commerce and Economic Opportunity under
3 Section 11 of the Illinois Enterprise Zone Act or under
4 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment
5 Zone Act. This subparagraph (N) is exempt from the
6 provisions of Section 250;

7 (O) An amount equal to: (i) 85% for taxable years
8 ending on or before December 31, 1992, or, a percentage
9 equal to the percentage allowable under Section
10 243(a)(1) of the Internal Revenue Code of 1986 for
11 taxable years ending after December 31, 1992, of the
12 amount by which dividends included in taxable income
13 and received from a corporation that is not created or
14 organized under the laws of the United States or any
15 state or political subdivision thereof, including, for
16 taxable years ending on or after December 31, 1988,
17 dividends received or deemed received or paid or deemed
18 paid under Sections 951 through 964 of the Internal
19 Revenue Code, exceed the amount of the modification
20 provided under subparagraph (G) of paragraph (2) of
21 this subsection (b) which is related to such dividends,
22 and including, for taxable years ending on or after
23 December 31, 2008, dividends received from a real
24 estate investment trust; plus (ii) 100% of the amount
25 by which dividends, included in taxable income and
26 received, including, for taxable years ending on or

1 after December 31, 1988, dividends received or deemed
2 received or paid or deemed paid under Sections 951
3 through 964 of the Internal Revenue Code and including,
4 for taxable years ending on or after December 31, 2008,
5 dividends received from a real estate investment
6 trust, from any such corporation specified in clause
7 (i) that would but for the provisions of Section 1504
8 (b) (3) of the Internal Revenue Code be treated as a
9 member of the affiliated group which includes the
10 dividend recipient, exceed the amount of the
11 modification provided under subparagraph (G) of
12 paragraph (2) of this subsection (b) which is related
13 to such dividends;

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

17 (Q) An amount equal to the amount of the deduction
18 used to compute the federal income tax credit for
19 restoration of substantial amounts held under claim of
20 right for the taxable year pursuant to Section 1341 of
21 the Internal Revenue Code of 1986;

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

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

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

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

25 (1) "y" equals the amount of the depreciation
26 deduction taken for the taxable year on the

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

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

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

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

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

21 The aggregate amount deducted under this
22 subparagraph in all taxable years for any one piece of
23 property may not exceed the amount of the bonus
24 depreciation deduction taken on that property on the
25 taxpayer's federal income tax return under subsection
26 (k) of Section 168 of the Internal Revenue Code. This

1 subparagraph (T) is exempt from the provisions of
2 Section 250;

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

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

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

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

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

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

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

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same ~~foreign~~ person; ~~and~~

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

23 (FF) An amount equal to the income from insurance
24 premiums taken into account for the taxable year (net
25 of the deductions allocable thereto) with respect to
26 transactions with a person who would be a member of the

1 same unitary business group but for the fact that the
2 person is prohibited under Section 1501(a)(27) from
3 being included in the unitary business group because he
4 or she is ordinarily required to apportion business
5 income under different subsections of Section 304, but
6 not to exceed the addition modification required to be
7 made for the same taxable year under Section
8 203(a)(2)(D-18) for intangible expenses and costs
9 paid, accrued, or incurred, directly or indirectly, to
10 the same person.

11 (3) Special rule. For purposes of paragraph (2) (A),
12 "gross income" in the case of a life insurance company, for
13 tax years ending on and after December 31, 1994, shall mean
14 the gross investment income for the taxable year.

15 (c) Trusts and estates.

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

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

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

1 in the computation of taxable income;

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

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

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

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

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

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

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

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

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

25 (G) An amount equal to the amount of the capital
26 gain deduction allowable under the Internal Revenue

1 Code, to the extent deducted from gross income in the
2 computation of taxable income;

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

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

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

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

1 The taxpayer is required to make the addition
2 modification under this subparagraph only once with
3 respect to any one piece of property;

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

1 to Sections 951 through 964 of the Internal Revenue
2 Code and amounts included in gross income under Section
3 78 of the Internal Revenue Code) with respect to the
4 stock of the same person to whom the interest was paid,
5 accrued, or incurred.

6 This paragraph shall not apply to the following:

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

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

18 (a) the foreign person, during the same
19 taxable year, paid, accrued, or incurred, the
20 interest to a person that is not a related
21 member, and

22 (b) the transaction giving rise to the
23 interest expense between the taxpayer and the
24 foreign person did not have as a principal
25 purpose the avoidance of Illinois income tax,
26 and is paid pursuant to a contract or agreement

1 that reflects an arm's-length interest rate
2 and terms; or

3 (iii) the taxpayer can establish, based on
4 clear and convincing evidence, that the interest
5 paid, accrued, or incurred relates to a contract or
6 agreement entered into at arm's-length rates and
7 terms and the principal purpose for the payment is
8 not federal or Illinois tax avoidance; or

9 (iv) an item of interest paid, accrued, or
10 incurred, directly or indirectly, to a foreign
11 person if the taxpayer establishes by clear and
12 convincing evidence that the adjustments are
13 unreasonable; or if the taxpayer and the Director
14 agree in writing to the application or use of an
15 alternative method of apportionment under Section
16 304(f).

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

26 (G-13) An ~~For taxable years ending on or after~~

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

1 the intangible expenses and costs were directly or
2 indirectly paid, incurred, or accrued. The preceding
3 sentence shall not apply to the extent that the same
4 dividends caused a reduction to the addition
5 modification required under Section 203(c)(2)(G-12) of
6 this Act. As used in this subparagraph, the term
7 "intangible expenses and costs" includes: (1)
8 expenses, losses, and costs for or related to the
9 direct or indirect acquisition, use, maintenance or
10 management, ownership, sale, exchange, or any other
11 disposition of intangible property; (2) losses
12 incurred, directly or indirectly, from factoring
13 transactions or discounting transactions; (3) royalty,
14 patent, technical, and copyright fees; (4) licensing
15 fees; and (5) other similar expenses and costs. For
16 purposes of this subparagraph, "intangible property"
17 includes patents, patent applications, trade names,
18 trademarks, service marks, copyrights, mask works,
19 trade secrets, and similar types of intangible assets.

20 This paragraph shall not apply to the following:

21 (i) any item of intangible expenses or costs
22 paid, accrued, or incurred, directly or
23 indirectly, from a transaction with a foreign
24 person who is subject in a foreign country or
25 state, other than a state which requires mandatory
26 unitary reporting, to a tax on or measured by net

1 income with respect to such item; or

2 (ii) any item of intangible expense or cost
3 paid, accrued, or incurred, directly or
4 indirectly, if the taxpayer can establish, based
5 on a preponderance of the evidence, both of the
6 following:

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

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

18 (iii) any item of intangible expense or cost
19 paid, accrued, or incurred, directly or
20 indirectly, from a transaction with a foreign
21 person if the taxpayer establishes by clear and
22 convincing evidence, that the adjustments are
23 unreasonable; or if the taxpayer and the Director
24 agree in writing to the application or use of an
25 alternative method of apportionment under Section
26 304(f);

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

10 (G-14) For taxable years ending on or after
11 December 31, 2008, an amount equal to the amount of
12 insurance premium expenses and costs otherwise allowed
13 as a deduction in computing base income, and that were
14 paid, accrued, or incurred, directly or indirectly, to
15 a person who would be a member of the same unitary
16 business group but for the fact that the person is
17 prohibited under Section 1501(a)(27) from being
18 included in the unitary business group because he or
19 she is ordinarily required to apportion business
20 income under different subsections of Section 304. The
21 addition modification required by this subparagraph
22 shall be reduced to the extent that dividends were
23 included in base income of the unitary group for the
24 same taxable year and received by the taxpayer or by a
25 member of the taxpayer's unitary business group
26 (including amounts included in gross income under

1 Sections 951 through 964 of the Internal Revenue Code
2 and amounts included in gross income under Section 78
3 of the Internal Revenue Code) with respect to the stock
4 of the same person to whom the intangible expenses and
5 costs were directly or indirectly paid, incurred, or
6 accrued. The preceding sentence does not apply to the
7 extent that the same dividends caused a reduction to
8 the addition modification required under Section
9 203(a)(2)(D-17) of this Act.

10 and by deducting from the total so obtained the sum of the
11 following amounts:

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

23 (I) The valuation limitation amount;

24 (J) An amount equal to the amount of any tax
25 imposed by this Act which was refunded to the taxpayer
26 and included in such total for the taxable year;

1 (K) An amount equal to all amounts included in
2 taxable income as modified by subparagraphs (A), (B),
3 (C), (D), (E), (F) and (G) which are exempt from
4 taxation by this State either by reason of its statutes
5 or Constitution or by reason of the Constitution,
6 treaties or statutes of the United States; provided
7 that, in the case of any statute of this State or, for
8 taxable years ending on or after December 31, 2008, of
9 the United States, any treaty of the United States, the
10 Illinois Constitution, or the United States
11 Constitution that exempts income derived from bonds or
12 other obligations from the tax imposed under this Act,
13 the amount exempted shall be the income ~~interest~~ net of
14 bond premium amortization, and, for taxable years
15 ending on or after December 31, 2008, interest expense
16 incurred on indebtedness to carry the bond or other
17 obligation, expenses incurred in producing the income
18 to be deducted, and all other related expenses. The
19 amount of expenses to be taken into account under this
20 provision may not exceed the amount of income that is
21 exempted;

22 (L) With the exception of any amounts subtracted
23 under subparagraph (K), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
26 as now or hereafter amended, and all amounts of

1 expenses allocable to interest and disallowed as
2 deductions by Section 265(1) of the Internal Revenue
3 Code of 1954, as now or hereafter amended; and (ii) for
4 taxable years ending on or after August 13, 1999,
5 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
6 the Internal Revenue Code; the provisions of this
7 subparagraph are exempt from the provisions of Section
8 250;

9 (M) An amount equal to those dividends included in
10 such total which were paid by a corporation which
11 conducts business operations in an Enterprise Zone or
12 zones created under the Illinois Enterprise Zone Act or
13 a River Edge Redevelopment Zone or zones created under
14 the River Edge Redevelopment Zone Act and conducts
15 substantially all of its operations in an Enterprise
16 Zone or Zones or a River Edge Redevelopment Zone or
17 zones. This subparagraph (M) is exempt from the
18 provisions of Section 250;

19 (N) An amount equal to any contribution made to a
20 job training project established pursuant to the Tax
21 Increment Allocation Redevelopment Act;

22 (O) An amount equal to those dividends included in
23 such total that were paid by a corporation that
24 conducts business operations in a federally designated
25 Foreign Trade Zone or Sub-Zone and that is designated a
26 High Impact Business located in Illinois; provided

1 that dividends eligible for the deduction provided in
2 subparagraph (M) of paragraph (2) of this subsection
3 shall not be eligible for the deduction provided under
4 this subparagraph (O);

5 (P) An amount equal to the amount of the deduction
6 used to compute the federal income tax credit for
7 restoration of substantial amounts held under claim of
8 right for the taxable year pursuant to Section 1341 of
9 the Internal Revenue Code of 1986;

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

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

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

23 (1) "y" equals the amount of the depreciation
24 deduction taken for the taxable year on the
25 taxpayer's federal income tax return on property
26 for which the bonus depreciation deduction was

1 taken in any year under subsection (k) of Section
2 168 of the Internal Revenue Code, but not including
3 the bonus depreciation deduction;

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

8 (3) for taxable years ending after December
9 31, 2005:

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

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

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

1 (S) If the taxpayer sells, transfers, abandons, or
2 otherwise disposes of property for which the taxpayer
3 was required in any taxable year to make an addition
4 modification under subparagraph (G-10), then an amount
5 equal to that addition modification.

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

13 The taxpayer is allowed to take the deduction under
14 this subparagraph only once with respect to any one
15 piece of property.

16 This subparagraph (S) is exempt from the
17 provisions of Section 250;

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

1 allocable thereto) taken into account for the taxable
2 year with respect to a transaction with a taxpayer that
3 is required to make an addition modification with
4 respect to such transaction under Section
5 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
6 203(d)(2)(D-8), but not to exceed the amount of such
7 addition modification;

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

1 (V) An amount equal to the income from intangible
2 property taken into account for the taxable year (net
3 of the deductions allocable thereto) with respect to
4 transactions with a foreign person who would be a
5 member of the taxpayer's unitary business group but for
6 the fact that the foreign person's business activity
7 outside the United States is 80% or more of that
8 person's total business activity, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(c)(2)(G-13) for
11 intangible expenses and costs paid, accrued, or
12 incurred, directly or indirectly, to the same foreign
13 person; and-

14 (FF) An amount equal to the income from insurance
15 premiums taken into account for the taxable year (net
16 of the deductions allocable thereto) with respect to
17 transactions with a person who would be a member of the
18 same unitary business group but for the fact that the
19 person is prohibited under Section 1501(a)(27) from
20 being included in the unitary business group because he
21 or she is ordinarily required to apportion business
22 income under different subsections of Section 304, but
23 not to exceed the addition modification required to be
24 made for the same taxable year under Section
25 203(a)(2)(D-18) for intangible expenses and costs
26 paid, accrued, or incurred, directly or indirectly, to

1 the same person.

2 (3) Limitation. The amount of any modification
3 otherwise required under this subsection shall, under
4 regulations prescribed by the Department, be adjusted by
5 any amounts included therein which were properly paid,
6 credited, or required to be distributed, or permanently set
7 aside for charitable purposes pursuant to Internal Revenue
8 Code Section 642(c) during the taxable year.

9 (d) Partnerships.

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

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

16 (A) An amount equal to all amounts paid or accrued
17 to the taxpayer as interest or dividends during the
18 taxable year to the extent excluded from gross income
19 in the computation of taxable income;

20 (B) An amount equal to the amount of tax imposed by
21 this Act to the extent deducted from gross income for
22 the taxable year;

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

1 (D) An amount equal to the amount of the capital
2 gain deduction allowable under the Internal Revenue
3 Code, to the extent deducted from gross income in the
4 computation of taxable income;

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

10 (D-6) If the taxpayer sells, transfers, abandons,
11 or otherwise disposes of property for which the
12 taxpayer was required in any taxable year to make an
13 addition modification under subparagraph (D-5), then
14 an amount equal to the aggregate amount of the
15 deductions taken in all taxable years under
16 subparagraph (O) with respect to that property.

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

24 The taxpayer is required to make the addition
25 modification under this subparagraph only once with
26 respect to any one piece of property;

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

1 same person to whom the interest was paid, accrued, or
2 incurred.

3 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) the taxpayer can establish, based on

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

6 (iv) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f).

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

23 (D-8) ~~An~~ An ~~For taxable years ending on or after~~
24 ~~December 31, 2004,~~ an amount equal to the amount of
25 intangible expenses and costs otherwise allowed as a
26 deduction in computing base income, and that were paid,

1 accrued, or incurred, directly or indirectly, (i) for
2 taxable years ending on or after December 31, 2004, to
3 a foreign person who would be a member of the same
4 unitary business group but for the fact that the
5 foreign person's business activity outside the United
6 States is 80% or more of that person's total business
7 activity and (ii) for taxable years ending on or after
8 December 31, 2008, to a person who would be a member of
9 the same unitary business group but for the fact that
10 the person is prohibited under Section 1501(a)(27)
11 from being included in the unitary business group
12 because he or she is ordinarily required to apportion
13 business income under different subsections of Section
14 304. The addition modification required by this
15 subparagraph shall be reduced to the extent that
16 dividends were included in base income of the unitary
17 group for the same taxable year and received by the
18 taxpayer or by a member of the taxpayer's unitary
19 business group (including amounts included in gross
20 income pursuant to Sections 951 through 964 of the
21 Internal Revenue Code and amounts included in gross
22 income under Section 78 of the Internal Revenue Code)
23 with respect to the stock of the same person to whom
24 the intangible expenses and costs were directly or
25 indirectly paid, incurred or accrued. The preceding
26 sentence shall not apply to the extent that the same

1 dividends caused a reduction to the addition
2 modification required under Section 203(d)(2)(D-7) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes (1) expenses,
5 losses, and costs for, or related to, the direct or
6 indirect acquisition, use, maintenance or management,
7 ownership, sale, exchange, or any other disposition of
8 intangible property; (2) losses incurred, directly or
9 indirectly, from factoring transactions or discounting
10 transactions; (3) royalty, patent, technical, and
11 copyright fees; (4) licensing fees; and (5) other
12 similar expenses and costs. For purposes of this
13 subparagraph, "intangible property" includes patents,
14 patent applications, trade names, trademarks, service
15 marks, copyrights, mask works, trade secrets, and
16 similar types of intangible assets;

17 This paragraph shall not apply to the following:

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

25 (ii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or

1 indirectly, if the taxpayer can establish, based
2 on a preponderance of the evidence, both of the
3 following:

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

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

15 (iii) any item of intangible expense or cost
16 paid, accrued, or incurred, directly or
17 indirectly, from a transaction with a foreign
18 person if the taxpayer establishes by clear and
19 convincing evidence, that the adjustments are
20 unreasonable; or if the taxpayer and the Director
21 agree in writing to the application or use of an
22 alternative method of apportionment under Section
23 304(f);

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

1 any tax year beginning after the effective date of
2 this amendment provided such adjustment is made
3 pursuant to regulation adopted by the Department
4 and such regulations provide methods and standards
5 by which the Department will utilize its authority
6 under Section 404 of this Act;

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

1 of the same person to whom the intangible expenses and
2 costs were directly or indirectly paid, incurred, or
3 accrued. The preceding sentence does not apply to the
4 extent that the same dividends caused a reduction to
5 the addition modification required under Section
6 203(a) (2) (D-17) of this Act.

7 and by deducting from the total so obtained the following
8 amounts:

9 (E) The valuation limitation amount;

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

13 (G) An amount equal to all amounts included in
14 taxable income as modified by subparagraphs (A), (B),
15 (C) and (D) which are exempt from taxation by this
16 State either by reason of its statutes or Constitution
17 or by reason of the Constitution, treaties or statutes
18 of the United States; provided that, in the case of any
19 statute of this State or, for taxable years ending on
20 or after December 31, 2008, of the United States, any
21 treaty of the United States, the Illinois
22 Constitution, or the United States Constitution that
23 exempts income derived from bonds or other obligations
24 from the tax imposed under this Act, the amount
25 exempted shall be the income ~~interest~~ net of bond
26 premium amortization, and, for taxable years ending on

1 or after December 31, 2008, interest expense incurred
2 on indebtedness to carry the bond or other obligation,
3 expenses incurred in producing the income to be
4 deducted, and all other related expenses. The amount of
5 expenses to be taken into account under this provision
6 may not exceed the amount of income that is exempted;

7 (H) Any income of the partnership which
8 constitutes personal service income as defined in
9 Section 1348 (b) (1) of the Internal Revenue Code (as
10 in effect December 31, 1981) or a reasonable allowance
11 for compensation paid or accrued for services rendered
12 by partners to the partnership, whichever is greater;

13 (I) An amount equal to all amounts of income
14 distributable to an entity subject to the Personal
15 Property Tax Replacement Income Tax imposed by
16 subsections (c) and (d) of Section 201 of this Act
17 including amounts distributable to organizations
18 exempt from federal income tax by reason of Section
19 501(a) of the Internal Revenue Code;

20 (J) With the exception of any amounts subtracted
21 under subparagraph (G), an amount equal to the sum of
22 all amounts disallowed as deductions by (i) Sections
23 171(a) (2), and 265(2) of the Internal Revenue Code of
24 1954, as now or hereafter amended, and all amounts of
25 expenses allocable to interest and disallowed as
26 deductions by Section 265(1) of the Internal Revenue

1 Code, as now or hereafter amended; and (ii) for taxable
2 years ending on or after August 13, 1999, Sections
3 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
4 Internal Revenue Code; the provisions of this
5 subparagraph are exempt from the provisions of Section
6 250;

7 (K) An amount equal to those dividends included in
8 such total which were paid by a corporation which
9 conducts business operations in an Enterprise Zone or
10 zones created under the Illinois Enterprise Zone Act,
11 enacted by the 82nd General Assembly, or a River Edge
12 Redevelopment Zone or zones created under the River
13 Edge Redevelopment Zone Act and conducts substantially
14 all of its operations in an Enterprise Zone or Zones or
15 from a River Edge Redevelopment Zone or zones. This
16 subparagraph (K) is exempt from the provisions of
17 Section 250;

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

21 (M) An amount equal to those dividends included in
22 such total that were paid by a corporation that
23 conducts business operations in a federally designated
24 Foreign Trade Zone or Sub-Zone and that is designated a
25 High Impact Business located in Illinois; provided
26 that dividends eligible for the deduction provided in

1 subparagraph (K) of paragraph (2) of this subsection
2 shall not be eligible for the deduction provided under
3 this subparagraph (M);

4 (N) An amount equal to the amount of the deduction
5 used to compute the federal income tax credit for
6 restoration of substantial amounts held under claim of
7 right for the taxable year pursuant to Section 1341 of
8 the Internal Revenue Code of 1986;

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

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

22 (2) for taxable years ending on or before
23 December 31, 2005, "x" equals "y" multiplied by 30
24 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (3) for taxable years ending after December

1 31, 2005:

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

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

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

19 (P) If the taxpayer sells, transfers, abandons, or
20 otherwise disposes of property for which the taxpayer
21 was required in any taxable year to make an addition
22 modification under subparagraph (D-5), then an amount
23 equal to that addition modification.

24 If the taxpayer continues to own property through
25 the last day of the last tax year for which the
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer
2 was required in any taxable year to make an addition
3 modification under subparagraph (D-5), then an amount
4 equal to that addition modification.

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

8 This subparagraph (P) is exempt from the
9 provisions of Section 250;

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

26 (R) An amount equal to the interest income taken

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

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

1 years ending on or after December 31, 2008, to a person
2 who would be a member of the same unitary business
3 group but for the fact that the person is prohibited
4 under Section 1501(a)(27) from being included in the
5 unitary business group because he or she is ordinarily
6 required to apportion business income under different
7 subsections of Section 304, but not to exceed the
8 addition modification required to be made for the same
9 taxable year under Section 203(d)(2)(D-8) for
10 intangible expenses and costs paid, accrued, or
11 incurred, directly or indirectly, to the same foreign
12 person; ~~and-~~

13 (FF) An amount equal to the income from insurance
14 premiums taken into account for the taxable year (net
15 of the deductions allocable thereto) with respect to
16 transactions with a person who would be a member of the
17 same unitary business group but for the fact that the
18 person is prohibited under Section 1501(a)(27) from
19 being included in the unitary business group because he
20 or she is ordinarily required to apportion business
21 income under different subsections of Section 304, but
22 not to exceed the addition modification required to be
23 made for the same taxable year under Section
24 203(a)(2)(D-18) for intangible expenses and costs
25 paid, accrued, or incurred, directly or indirectly, to
26 the same person.

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

2 (1) In general. Subject to the provisions of paragraph
3 (2) and subsection (b) (3), for purposes of this Section
4 and Section 803(e), a taxpayer's gross income, adjusted
5 gross income, or taxable income for the taxable year shall
6 mean the amount of gross income, adjusted gross income or
7 taxable income properly reportable for federal income tax
8 purposes for the taxable year under the provisions of the
9 Internal Revenue Code. Taxable income may be less than
10 zero. However, for taxable years ending on or after
11 December 31, 1986, net operating loss carryforwards from
12 taxable years ending prior to December 31, 1986, may not
13 exceed the sum of federal taxable income for the taxable
14 year before net operating loss deduction, plus the excess
15 of addition modifications over subtraction modifications
16 for the taxable year. For taxable years ending prior to
17 December 31, 1986, taxable income may never be an amount in
18 excess of the net operating loss for the taxable year as
19 defined in subsections (c) and (d) of Section 172 of the
20 Internal Revenue Code, provided that when taxable income of
21 a corporation (other than a Subchapter S corporation),
22 trust, or estate is less than zero and addition
23 modifications, other than those provided by subparagraph
24 (E) of paragraph (2) of subsection (b) for corporations or
25 subparagraph (E) of paragraph (2) of subsection (c) for

1 trusts and estates, exceed subtraction modifications, an
2 addition modification must be made under those
3 subparagraphs for any other taxable year to which the
4 taxable income less than zero (net operating loss) is
5 applied under Section 172 of the Internal Revenue Code or
6 under subparagraph (E) of paragraph (2) of this subsection
7 (e) applied in conjunction with Section 172 of the Internal
8 Revenue Code.

9 (2) Special rule. For purposes of paragraph (1) of this
10 subsection, the taxable income properly reportable for
11 federal income tax purposes shall mean:

12 (A) Certain life insurance companies. In the case
13 of a life insurance company subject to the tax imposed
14 by Section 801 of the Internal Revenue Code, life
15 insurance company taxable income, plus the amount of
16 distribution from pre-1984 policyholder surplus
17 accounts as calculated under Section 815a of the
18 Internal Revenue Code;

19 (B) Certain other insurance companies. In the case
20 of mutual insurance companies subject to the tax
21 imposed by Section 831 of the Internal Revenue Code,
22 insurance company taxable income;

23 (C) Regulated investment companies. In the case of
24 a regulated investment company subject to the tax
25 imposed by Section 852 of the Internal Revenue Code,
26 investment company taxable income;

1 (D) Real estate investment trusts. In the case of a
2 real estate investment trust subject to the tax imposed
3 by Section 857 of the Internal Revenue Code, real
4 estate investment trust taxable income;

5 (E) Consolidated corporations. In the case of a
6 corporation which is a member of an affiliated group of
7 corporations filing a consolidated income tax return
8 for the taxable year for federal income tax purposes,
9 taxable income determined as if such corporation had
10 filed a separate return for federal income tax purposes
11 for the taxable year and each preceding taxable year
12 for which it was a member of an affiliated group. For
13 purposes of this subparagraph, the taxpayer's separate
14 taxable income shall be determined as if the election
15 provided by Section 243(b) (2) of the Internal Revenue
16 Code had been in effect for all such years;

17 (F) Cooperatives. In the case of a cooperative
18 corporation or association, the taxable income of such
19 organization determined in accordance with the
20 provisions of Section 1381 through 1388 of the Internal
21 Revenue Code;

22 (G) Subchapter S corporations. In the case of: (i)
23 a Subchapter S corporation for which there is in effect
24 an election for the taxable year under Section 1362 of
25 the Internal Revenue Code, the taxable income of such
26 corporation determined in accordance with Section

1 1363(b) of the Internal Revenue Code, except that
2 taxable income shall take into account those items
3 which are required by Section 1363(b)(1) of the
4 Internal Revenue Code to be separately stated; and (ii)
5 a Subchapter S corporation for which there is in effect
6 a federal election to opt out of the provisions of the
7 Subchapter S Revision Act of 1982 and have applied
8 instead the prior federal Subchapter S rules as in
9 effect on July 1, 1982, the taxable income of such
10 corporation determined in accordance with the federal
11 Subchapter S rules as in effect on July 1, 1982; and

12 (H) Partnerships. In the case of a partnership,
13 taxable income determined in accordance with Section
14 703 of the Internal Revenue Code, except that taxable
15 income shall take into account those items which are
16 required by Section 703(a)(1) to be separately stated
17 but which would be taken into account by an individual
18 in calculating his taxable income.

19 (3) Recapture of business expenses on disposition of
20 asset or business. Notwithstanding any other law to the
21 contrary, if in prior years income from an asset or
22 business has been classified as business income and in a
23 later year is demonstrated to be non-business income, then
24 all expenses, without limitation, deducted in such later
25 year and in the 2 immediately preceding taxable years
26 related to that asset or business that generated the

1 non-business income shall be added back and recaptured as
2 business income in the year of the disposition of the asset
3 or business. Such amount shall be apportioned to Illinois
4 using the greater of the apportionment fraction computed
5 for the business under Section 304 of this Act for the
6 taxable year or the average of the apportionment fractions
7 computed for the business under Section 304 of this Act for
8 the taxable year and for the 2 immediately preceding
9 taxable years.

10 (f) Valuation limitation amount.

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

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

19 (B) The lesser of (i) the sum of the pre-August 1,
20 1969 appreciation amounts (to the extent consisting of
21 capital gain) for all property in respect of which such
22 gain was reported for federal income tax purposes for
23 the taxable year, or (ii) the net capital gain for the
24 taxable year, reduced in either case by any amount of
25 such gain included in the amount determined under
26 subsection (a) (2) (F) or (c) (2) (H).

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

2 (A) If the fair market value of property referred
3 to in paragraph (1) was readily ascertainable on August
4 1, 1969, the pre-August 1, 1969 appreciation amount for
5 such property is the lesser of (i) the excess of such
6 fair market value over the taxpayer's basis (for
7 determining gain) for such property on that date
8 (determined under the Internal Revenue Code as in
9 effect on that date), or (ii) the total gain realized
10 and reportable for federal income tax purposes in
11 respect of the sale, exchange or other disposition of
12 such property.

13 (B) If the fair market value of property referred
14 to in paragraph (1) was not readily ascertainable on
15 August 1, 1969, the pre-August 1, 1969 appreciation
16 amount for such property is that amount which bears the
17 same ratio to the total gain reported in respect of the
18 property for federal income tax purposes for the
19 taxable year, as the number of full calendar months in
20 that part of the taxpayer's holding period for the
21 property ending July 31, 1969 bears to the number of
22 full calendar months in the taxpayer's entire holding
23 period for the property.

24 (C) The Department shall prescribe such
25 regulations as may be necessary to carry out the
26 purposes of this paragraph.

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

4 (h) Legislative intention. Except as expressly provided by
5 this Section there shall be no modifications or limitations on
6 the amounts of income, gain, loss or deduction taken into
7 account in determining gross income, adjusted gross income or
8 taxable income for federal income tax purposes for the taxable
9 year, or in the amount of such items entering into the
10 computation of base income and net income under this Act for
11 such taxable year, whether in respect of property values as of
12 August 1, 1969 or otherwise.

13 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
14 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
15 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

16 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

17 Sec. 205. Exempt organizations.

18 (a) Charitable, etc. organizations. The base income of an
19 organization which is exempt from the federal income tax by
20 reason of Section 501(a) of the Internal Revenue Code shall not
21 be determined under section 203 of this Act, but shall be its
22 unrelated business taxable income as determined under section
23 512 of the Internal Revenue Code, without any deduction for the

1 tax imposed by this Act. The standard exemption provided by
2 section 204 of this Act shall not be allowed in determining the
3 net income of an organization to which this subsection applies.

4 (b) Partnerships. A partnership as such shall not be
5 subject to the tax imposed by subsection 201 (a) and (b) of
6 this Act, but shall be subject to the replacement tax imposed
7 by subsection 201 (c) and (d) of this Act and shall compute its
8 base income as described in subsection (d) of Section 203 of
9 this Act. For taxable years ending on or after December 31,
10 2004, an investment partnership, as defined in Section
11 1501(a)(11.5) of this Act, shall not be subject to the tax
12 imposed by subsections (c) and (d) of Section 201 of this Act.
13 A partnership shall file such returns and other information at
14 such time and in such manner as may be required under Article 5
15 of this Act. The partners in a partnership shall be liable for
16 the replacement tax imposed by subsection 201 (c) and (d) of
17 this Act on such partnership, to the extent such tax is not
18 paid by the partnership, as provided under the laws of Illinois
19 governing the liability of partners for the obligations of a
20 partnership. Persons carrying on business as partners shall be
21 liable for the tax imposed by subsection 201 (a) and (b) of
22 this Act only in their separate or individual capacities.

23 (c) Subchapter S corporations. A Subchapter S corporation
24 shall not be subject to the tax imposed by subsection 201 (a)
25 and (b) of this Act but shall be subject to the replacement tax
26 imposed by subsection 201 (c) and (d) of this Act and shall

1 file such returns and other information at such time and in
2 such manner as may be required under Article 5 of this Act.

3 (d) Combat zone death. An individual relieved from the
4 federal income tax for any taxable year by reason of section
5 692 of the Internal Revenue Code shall not be subject to the
6 tax imposed by this Act for such taxable year.

7 (e) Certain trusts. A common trust fund described in
8 Section 584 of the Internal Revenue Code, and any other trust
9 to the extent that the grantor is treated as the owner thereof
10 under sections 671 through 678 of the Internal Revenue Code
11 shall not be subject to the tax imposed by this Act.

12 (f) Certain business activities. A person not otherwise
13 subject to the tax imposed by this Act shall not become subject
14 to the tax imposed by this Act by reason of:

15 (1) that person's ownership of tangible personal
16 property located at the premises of a printer in this State
17 with which the person has contracted for printing, or

18 (2) activities of the person's employees or agents
19 located solely at the premises of a printer and related to
20 quality control, distribution, or printing services
21 performed by a printer in the State with which the person
22 has contracted for printing.

23 (g) A nonprofit risk organization that holds a certificate
24 of authority under Article VIID of the Illinois Insurance Code
25 is exempt from the tax imposed under this Act with respect to
26 its activities or operations in furtherance of the powers

1 conferred upon it under that Article VIID of the Illinois
2 Insurance Code.

3 (Source: P.A. 93-840, eff. 7-30-04; 93-918, eff. 1-1-05;
4 revised 10-25-04.)

5 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

6 Sec. 207. Net Losses.

7 (a) If after applying all of the (i) modifications provided
8 for in paragraph (2) of Section 203(b), paragraph (2) of
9 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the
10 allocation and apportionment provisions of Article 3 of this
11 Act and subsection (c) of this Section, the taxpayer's net
12 income results in a loss;

13 (1) for any taxable year ending prior to December 31,
14 1999, such loss shall be allowed as a carryover or
15 carryback deduction in the manner allowed under Section 172
16 of the Internal Revenue Code;

17 (2) for any taxable year ending on or after December
18 31, 1999 and prior to December 31, 2003, such loss shall be
19 allowed as a carryback to each of the 2 taxable years
20 preceding the taxable year of such loss and shall be a net
21 operating loss carryover to each of the 20 taxable years
22 following the taxable year of such loss; and

23 (3) for any taxable year ending on or after December
24 31, 2003, such loss shall be allowed as a net operating
25 loss carryover to each of the 12 taxable years following

1 the taxable year of such loss.

2 (a-5) Election to relinquish carryback and order of
3 application of losses.

4 (A) For losses incurred in tax years ending prior
5 to December 31, 2003, the taxpayer may elect to
6 relinquish the entire carryback period with respect to
7 such loss. Such election shall be made in the form and
8 manner prescribed by the Department and shall be made
9 by the due date (including extensions of time) for
10 filing the taxpayer's return for the taxable year in
11 which such loss is incurred, and such election, once
12 made, shall be irrevocable.

13 (B) The entire amount of such loss shall be carried
14 to the earliest taxable year to which such loss may be
15 carried. The amount of such loss which shall be carried
16 to each of the other taxable years shall be the excess,
17 if any, of the amount of such loss over the sum of the
18 deductions for carryback or carryover of such loss
19 allowable for each of the prior taxable years to which
20 such loss may be carried.

21 (b) Any loss determined under subsection (a) of this
22 Section must be carried back or carried forward in the same
23 manner for purposes of subsections (a) and (b) of Section 201
24 of this Act as for purposes of subsections (c) and (d) of
25 Section 201 of this Act.

26 (c) Notwithstanding any other provision of this Act, for

1 each taxable year ending on or after December 31, 2008, for
2 purposes of computing the loss for the taxable year under
3 subsection (a) of this Section and the deduction taken into
4 account for the taxable year for a net operating loss carryover
5 under paragraphs (1), (2), and (3) of subsection (a) of this
6 Section, the loss and net operating loss carryover shall be
7 reduced in an amount equal to the reduction to the net
8 operating loss and net operating loss carryover to the taxable
9 year, respectively, required under Section 108(b)(2)(A) of the
10 Internal Revenue Code, multiplied by a fraction, the numerator
11 of which is the amount of discharge of indebtedness income that
12 is excluded from gross income for the taxable year (but only if
13 the taxable year ends on or after December 31, 2008) under
14 Section 108(a) of the Internal Revenue Code and that would have
15 been allocated and apportioned to this State under Article 3 of
16 this Act but for that exclusion, and the denominator of which
17 is the total amount of discharge of indebtedness income
18 excluded from gross income under Section 108(a) of the Internal
19 Revenue Code for the taxable year. The reduction required under
20 this subsection (c) shall be made after the determination of
21 Illinois net income for the taxable year in which the
22 indebtedness is discharged.

23 (Source: P.A. 93-29, eff. 6-20-03.)

24 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

21 (1) Property factor.

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

1 person's real and tangible personal property owned or
2 rented and used in the trade or business during the taxable
3 year.

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

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

15 (2) Payroll factor.

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

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

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

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

1 individual's service performed within this State; or

2 (iii) Some of the service is performed within this
3 State and either the base of operations, or if there is
4 no base of operations, the place from which the service
5 is directed or controlled is within this State, or the
6 base of operations or the place from which the service
7 is directed or controlled is not in any state in which
8 some part of the service is performed, but the
9 individual's residence is in this State.

10 (iv) Compensation paid to nonresident professional
11 athletes.

12 (a) General. The Illinois source income of a
13 nonresident individual who is a member of a
14 professional athletic team includes the portion of the
15 individual's total compensation for services performed
16 as a member of a professional athletic team during the
17 taxable year which the number of duty days spent within
18 this State performing services for the team in any
19 manner during the taxable year bears to the total
20 number of duty days spent both within and without this
21 State during the taxable year.

22 (b) Travel days. Travel days that do not involve
23 either a game, practice, team meeting, or other similar
24 team event are not considered duty days spent in this
25 State. However, such travel days are considered in the
26 total duty days spent both within and without this

1 State.

2 (c) Definitions. For purposes of this subpart

3 (iv):

4 (1) The term "professional athletic team"
5 includes, but is not limited to, any professional
6 baseball, basketball, football, soccer, or hockey
7 team.

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

16 (3) Except as provided in items (C) and (D) of
17 this subpart (3), the term "duty days" means all
18 days during the taxable year from the beginning of
19 the professional athletic team's official
20 pre-season training period through the last game
21 in which the team competes or is scheduled to
22 compete. Duty days shall be counted for the year in
23 which they occur, including where a team's
24 official pre-season training period through the
25 last game in which the team competes or is
26 scheduled to compete, occurs during more than one

1 tax year.

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

12 (B) Also included in duty days are game
13 days, practice days, days spent at team
14 meetings, promotional caravans, preseason
15 training camps, and days served with the team
16 through all post-season games in which the team
17 competes or is scheduled to compete.

18 (C) Duty days for any person who joins a
19 team during the period from the beginning of
20 the professional athletic team's official
21 pre-season training period through the last
22 game in which the team competes, or is
23 scheduled to compete, shall begin on the day
24 that person joins the team. Conversely, duty
25 days for any person who leaves a team during
26 this period shall end on the day that person

1 leaves the team. Where a person switches teams
2 during a taxable year, a separate duty-day
3 calculation shall be made for the period the
4 person was with each team.

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

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

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

1 (A) from the beginning of the official
2 pre-season training period through the last
3 game in which the team competes or is scheduled
4 to compete during that taxable year; and

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

9 This compensation shall include, but is not
10 limited to, salaries, wages, bonuses as described
11 in this subpart, and any other type of compensation
12 paid during the taxable year to a member of a
13 professional athletic team for services performed
14 in that year. This compensation does not include
15 strike benefits, severance pay, termination pay,
16 contract or option year buy-out payments,
17 expansion or relocation payments, or any other
18 payments not related to services performed for the
19 team.

20 For purposes of this subparagraph, "bonuses"
21 included in "total compensation for services
22 performed as a member of a professional athletic
23 team" subject to the allocation described in
24 Section 302(c)(1) are: bonuses earned as a result
25 of play (i.e., performance bonuses) during the
26 season, including bonuses paid for championship,

1 playoff or "bowl" games played by a team, or for
2 selection to all-star league or other honorary
3 positions; and bonuses paid for signing a
4 contract, unless the payment of the signing bonus
5 is not conditional upon the signee playing any
6 games for the team or performing any subsequent
7 services for the team or even making the team, the
8 signing bonus is payable separately from the
9 salary and any other compensation, and the signing
10 bonus is nonrefundable.

11 (3) Sales factor.

12 (A) The sales factor is a fraction, the numerator of
13 which is the total sales of the person in this State during
14 the taxable year, and the denominator of which is the total
15 sales of the person everywhere during the taxable year.

16 (B) Sales of tangible personal property are in this
17 State if:

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

22 (ii) The property is shipped from an office, store,
23 warehouse, factory or other place of storage in this
24 State and either the purchaser is the United States
25 government or the person is not taxable in the state of
26 the purchaser; provided, however, that premises owned

1 or leased by a person who has independently contracted
2 with the seller for the printing of newspapers,
3 periodicals or books shall not be deemed to be an
4 office, store, warehouse, factory or other place of
5 storage for purposes of this Section. Sales of tangible
6 personal property are not in this State if the seller
7 and purchaser would be members of the same unitary
8 business group but for the fact that either the seller
9 or purchaser is a person with 80% or more of total
10 business activity outside of the United States and the
11 property is purchased for resale.

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

14 (i) Gross receipts from the licensing, sale, or
15 other disposition of a patent, copyright, trademark,
16 or similar item of intangible personal property are in
17 this State to the extent the item is utilized in this
18 State during the year the gross receipts are included
19 in gross income.

20 (ii) Place of utilization.

21 (I) A patent is utilized in a state to the
22 extent that it is employed in production,
23 fabrication, manufacturing, or other processing in
24 the state or to the extent that a patented product
25 is produced in the state. If a patent is utilized
26 in more than one state, the extent to which it is

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

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

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

22 (iii) If the state of utilization of an item of
23 property governed by this paragraph (B-1) cannot be
24 determined from the taxpayer's books and records or
25 from the books and records of any person related to the
26 taxpayer within the meaning of Section 267(b) of the

1 Internal Revenue Code, 26 U.S.C. 267, the gross
2 receipts attributable to that item shall be excluded
3 from both the numerator and the denominator of the
4 sales factor.

5 (B-2) Gross receipts from the license, sale, or other
6 disposition of patents, copyrights, trademarks, and
7 similar items of intangible personal property may be
8 included in the numerator or denominator of the sales
9 factor only if gross receipts from licenses, sales, or
10 other disposition of such items comprise more than 50% of
11 the taxpayer's total gross receipts included in gross
12 income during the tax year and during each of the 2
13 immediately preceding tax years; provided that, when a
14 taxpayer is a member of a unitary business group, such
15 determination shall be made on the basis of the gross
16 receipts of the entire unitary business group.

17 (C) For taxable years ending before December 31, 2008,
18 sales ~~Sales~~, other than sales governed by paragraphs (B) ,
19 ~~and~~ (B-1) , and (B-2) , are in this State if:

20 (i) The income-producing activity is performed in
21 this State; or

22 (ii) The income-producing activity is performed
23 both within and without this State and a greater
24 proportion of the income-producing activity is
25 performed within this State than without this State,
26 based on performance costs.

1 (C-5) For taxable years ending on or after December 31,
2 2008, sales, other than sales governed by paragraphs (B),
3 (B-1), and (B-2), are in this State if the purchaser is in
4 this State or the sale is otherwise attributable to this
5 State's marketplace. The following examples are
6 illustrative:

7 (i) Sales from the sale or lease of real property
8 are in this State if the property is located in this
9 State.

10 (ii) Sales from the lease or rental of tangible
11 personal property are in this State if the property is
12 located in this State during the rental period. Sales
13 from the lease or rental of tangible personal property
14 that is characteristically moving property, including,
15 but not limited to, motor vehicles, rolling stock,
16 aircraft, vessels, or mobile equipment are in this
17 State to the extent that the property is used in this
18 State.

19 (iii) Sales of intangible personal property are in
20 this State if the purchaser realizes benefit from the
21 property in this State. If the purchaser realizes
22 benefit from the property both within and without this
23 State, the gross receipts from the sale shall be
24 divided among those states in which the taxpayer is
25 taxable in proportion to the benefit in each state. If
26 the proportionate benefit in this State cannot be

1 determined, the sale shall be excluded from both the
2 numerator and the denominator of the sales factor.

3 (iv) Sales of services are in this State if the
4 benefit of the service is realized in this State. If
5 the benefit of the service is realized both within and
6 without this State, the gross receipts from the sale
7 shall be divided among those states in which the
8 taxpayer is taxable in proportion to the benefit of
9 service realized in each state. If the proportionate
10 benefit in this State cannot be determined, the sale
11 shall be excluded from both the numerator and the
12 denominator of the sales factor. The Department may
13 adopt rules prescribing where the benefit of specific
14 types of service, including, but not limited to,
15 telecommunications, broadcast, cable, advertising,
16 publishing, and utility service, is realized.

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

26 (E) Paragraphs (B-1) and (B-2) shall apply to tax years

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

17 (b) Insurance companies.

18 (1) In general. Except as otherwise provided by
19 paragraph (2), business income of an insurance company for
20 a taxable year shall be apportioned to this State by
21 multiplying such income by a fraction, the numerator of
22 which is the direct premiums written for insurance upon
23 property or risk in this State, and the denominator of
24 which is the direct premiums written for insurance upon
25 property or risk everywhere. For purposes of this
26 subsection, the term "direct premiums written" means the

1 total amount of direct premiums written, assessments and
2 annuity considerations as reported for the taxable year on
3 the annual statement filed by the company with the Illinois
4 Director of Insurance in the form approved by the National
5 Convention of Insurance Commissioners or such other form as
6 may be prescribed in lieu thereof.

7 (2) Reinsurance. If the principal source of premiums
8 written by an insurance company consists of premiums for
9 reinsurance accepted by it, the business income of such
10 company shall be apportioned to this State by multiplying
11 such income by a fraction, the numerator of which is the
12 sum of (i) direct premiums written for insurance upon
13 property or risk in this State, plus (ii) premiums written
14 for reinsurance accepted in respect of property or risk in
15 this State, and the denominator of which is the sum of
16 (iii) direct premiums written for insurance upon property
17 or risk everywhere, plus (iv) premiums written for
18 reinsurance accepted in respect of property or risk
19 everywhere. For taxable years ending before December 31,
20 2008, for purposes of this paragraph, premiums written for
21 reinsurance accepted in respect of property or risk in this
22 State, whether or not otherwise determinable, may, at the
23 election of the company, be determined on the basis of the
24 proportion which premiums written for reinsurance accepted
25 from companies commercially domiciled in Illinois bears to
26 premiums written for reinsurance accepted from all

1 sources, or, alternatively, in the proportion which the sum
2 of the direct premiums written for insurance upon property
3 or risk in this State by each ceding company from which
4 reinsurance is accepted bears to the sum of the total
5 direct premiums written by each such ceding company for the
6 taxable year.

7 (c) Financial organizations.

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

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

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

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

26 (D) Interest charged to customers at places of

1 business maintained within this State for carrying
2 debit balances of margin accounts, without deduction
3 of any costs incurred in carrying such accounts; and

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

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

18 (A) Adjusted Income. The adjusted income of an
19 international banking facility is its income reduced
20 by the amount of the floor amount.

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

25 (i) The numerator shall be:

26 The average aggregate, determined on a

1 quarterly basis, of the financial organization's
2 loans to banks in foreign countries, to foreign
3 domiciled borrowers (except where secured
4 primarily by real estate) and to foreign
5 governments and other foreign official
6 institutions, as reported for its branches,
7 agencies and offices within the state on its
8 "Consolidated Report of Condition", Schedule A,
9 Lines 2.c., 5.b., and 7.a., which was filed with
10 the Federal Deposit Insurance Corporation and
11 other regulatory authorities, for the year 1980,
12 minus

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

24 (ii) the denominator shall be the average
25 aggregate, determined on a quarterly basis, of the
26 international banking facility's loans to banks in

1 foreign countries, to foreign domiciled borrowers
2 (except where secured primarily by real estate)
3 and to foreign governments and other foreign
4 official institutions, which were recorded in its
5 financial accounts for the current taxable year.

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

23 (3) For taxable years ending on or after December 31,
24 2008, the business income of a financial organization shall
25 be apportioned to this State by multiplying such income by
26 a fraction, the numerator of which is its gross receipts

1 from sources in this State or otherwise attributable to
2 this State's marketplace and the denominator of which is
3 its gross receipts everywhere during the taxable year.
4 "Gross receipts" for purposes of this subparagraph (3)
5 means gross income, including net taxable gain on
6 disposition of assets, including securities and money
7 market instruments, when derived from transactions and
8 activities in the regular course of the financial
9 organization's trade or business. If a person derives
10 business income from activities in addition to the
11 provision of financial services, this subparagraph (3)
12 shall apply only to its business income from financial
13 services, and its other business income shall be
14 apportioned to this State under the applicable provisions
15 of this Section. The following examples are illustrative:

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

25 (ii) Interest income, commissions, fees, gains on
26 disposition, and other receipts from assets in the

1 nature of loans that are secured primarily by real
2 estate or tangible personal property are from sources
3 in this State if the security is located in this State.

4 (iii) Interest income, commissions, fees, gains on
5 disposition, and other receipts from consumer loans
6 that are not secured by real or tangible personal
7 property are from sources in this State if the debtor
8 is a resident of this State.

9 (iv) Interest income, commissions, fees, gains on
10 disposition, and other receipts from commercial loans
11 and installment obligations that are not secured by
12 real or tangible personal property are from sources in
13 this State if the proceeds of the loan are to be
14 applied in this State. If it cannot be determined where
15 the funds are to be applied, the income and receipts
16 are from sources in this State if the office of the
17 borrower from which the loan was negotiated in the
18 regular course of business is located in this State. If
19 the location of this office cannot be determined, the
20 income and receipts shall be excluded from the
21 numerator and denominator of the sales factor.

22 (v) Interest income, fees, gains on disposition,
23 service charges, merchant discount income, and other
24 receipts from credit card receivables are from sources
25 in this State if the card charges are regularly billed
26 to a customer in this State.

1 (vi) Receipts from the performance of services,
2 including, but not limited to, fiduciary, advisory,
3 and brokerage services, are in this State if the
4 benefit of the service is realized in this State. If
5 the benefit of the service is realized both within and
6 without this State, the gross receipts from the sale
7 shall be divided among those states in which the
8 taxpayer is taxable in proportion to the benefit of
9 service realized in each state. If the proportionate
10 benefit in this State cannot be determined, the sale
11 shall be excluded from both the numerator and the
12 denominator of the gross receipts factor.

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

17 (viii) In the case of a financial organization that
18 accepts deposits, receipts from investments and from
19 money market instruments are apportioned to this State
20 based on the ratio that the total deposits of the
21 financial organization (including all members of the
22 financial organization's unitary group) from this
23 State, its residents, (including businesses with an
24 office or other place of business in this State), and
25 its political subdivisions, agencies, and
26 instrumentalities bear to total deposits everywhere.

1 For purposes of this subdivision, deposits must be
2 attributed to this State under the preceding sentence,
3 whether or not the deposits are accepted or maintained
4 by the financial organization at locations within this
5 State. In the case of a financial organization that
6 does not accept deposits, receipts from investments in
7 securities and from money market instruments shall be
8 excluded from the numerator and the denominator of the
9 gross receipts factor.

10 (4) As used in subparagraph (3), "deposit" includes but
11 is not limited to:

12 (i) the unpaid balance of money or its equivalent
13 received or held by a financial institution in the
14 usual course of business and for which it has given or
15 is obligated to give credit, either conditionally or
16 unconditionally, to a commercial, checking, savings,
17 time, or thrift account whether or not advance notice
18 is required to withdraw the credited funds, or which is
19 evidenced by its certificate of deposit, thrift
20 certificate, investment certificate, or certificate of
21 indebtedness, or other similar name, or a check or
22 draft drawn against a deposit account and certified by
23 the financial organization, or a letter of credit or a
24 traveler's check on which the financial organization
25 is primarily liable. However, without limiting the
26 generality of the term "money or its equivalent", any

1 such account or instrument must be regarded as
2 evidencing the receipt of the equivalent of money when
3 credited or issued in exchange for checks or drafts or
4 for a promissory note upon which the person obtaining
5 the credit or instrument is primarily or secondarily
6 liable, or for a charge against a deposit account, or
7 in settlement of checks, drafts, or other instruments
8 forwarded to the bank for collection;

9 (ii) trust funds received or held by the financial
10 organization, whether held in the trust department or
11 held or deposited in any other department of the
12 financial organization;

13 (iii) money received or held by a financial
14 organization, or the credit given for money or its
15 equivalent received or held by a financial
16 organization, in the usual course of business for a
17 special or specific purpose, regardless of the legal
18 relationship so established. Under this paragraph,
19 "deposit" includes, but is not limited to, escrow
20 funds, funds held as security for an obligation due to
21 the financial organization or others, including funds
22 held as dealers reserves, or for securities loaned by
23 the financial organization, funds deposited by a
24 debtor to meet maturing obligations, funds deposited
25 as advance payment on subscriptions to United States
26 government securities, funds held for distribution or

1 purchase of securities, funds held to meet its
2 acceptances or letters of credit, and withheld taxes.
3 It does not include funds received by the financial
4 organization for immediate application to the
5 reduction of an indebtedness to the receiving
6 financial organization, or under condition that the
7 receipt of the funds immediately reduces or
8 extinguishes the indebtedness;

9 (iv) outstanding drafts, including advice of
10 another financial organization, cashier's checks,
11 money orders, or other officer's checks issued in the
12 usual course of business for any purpose, but not
13 including those issued in payment for services,
14 dividends, or purchases or other costs or expenses of
15 the financial organization itself; and

16 (v) money or its equivalent held as a credit
17 balance by a financial organization on behalf of its
18 customer if the entity is engaged in soliciting and
19 holding such balances in the regular course of its
20 business.

21 (5) As used in subparagraph (3), "money market
22 instruments" includes but is not limited to:

23 (i) Interest-bearing deposits, federal funds sold
24 and securities purchased under agreements to resell,
25 commercial paper, banker's acceptances, and purchased
26 certificates of deposit and similar instruments to the

1 extent that the instruments are reflected as assets
2 under generally accepted accounting principles.

3 "Securities" means corporate stock, bonds, and
4 other securities (including, for purposes of taxation
5 of gains on securities and for purchases under
6 agreements to resell, United States Treasury
7 securities, obligations of United States government
8 agencies and corporations, obligations of state and
9 political subdivisions, the interest on which is
10 exempt from Illinois income tax), participations in
11 securities backed by mortgages held by United States or
12 state government agencies, loan-backed securities, and
13 similar investments to the extent the investments are
14 reflected as assets under generally accepted
15 accounting principles.

16 (ii) For purposes of subparagraph (3), "money
17 market instruments" shall include investments in
18 investment partnerships, trusts, pools, funds,
19 investment companies, or any similar entity in
20 proportion to the investment of the entity in money
21 market instruments, and "securities" shall include
22 investments in investment partnerships, trusts, pools,
23 funds, investment companies, or any similar entity in
24 proportion to the investment of the entity in
25 securities.

26 (d) Transportation services. For taxable years ending

1 before December 31, 2008, business ~~Business~~ income derived from
2 furnishing transportation services shall be apportioned to
3 this State in accordance with paragraphs (1) and (2):

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

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

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

25 (2) Such business income derived from transportation
26 by pipeline shall be apportioned to this State by

1 multiplying such income by a fraction, the numerator of
2 which is the revenue miles of the person in this State, and
3 the denominator of which is the revenue miles of the person
4 everywhere. For the purposes of this paragraph, a revenue
5 mile is the transportation by pipeline of 1 barrel of oil,
6 1,000 cubic feet of gas, or of any specified quantity of
7 any other substance, the distance of 1 mile for a
8 consideration.

9 (3) For taxable years ending on or after December 31,
10 2008, business income derived from providing
11 transportation services other than airline services shall
12 be apportioned to this State by using a fraction, (a) the
13 numerator of which shall be (i) all receipts from any
14 movement or shipment of people, goods, mail, oil, gas, or
15 any other substance (other than by airline) that both
16 originates and terminates in this State, plus (ii) that
17 portion of the person's gross receipts from movements or
18 shipments of people, goods, mail, oil, gas, or any other
19 substance (other than by airline) passing through, into, or
20 out of this State, that is determined by the ratio that the
21 miles traveled in this State bears to total miles from
22 point of origin to point of destination and (b) the
23 denominator of which shall be all revenue derived from the
24 movement or shipment of people, goods, mail, oil, gas, or
25 any other substance (other than by airline). If a person
26 derives business income from activities in addition to the

1 provision of transportation services (other than by
2 airline), this subsection shall apply only to its business
3 income from transportation services and its other business
4 income shall be apportioned to this State according to the
5 applicable provisions of this Section.

6 (4) For taxable years ending on or after December 31,
7 2008, business income derived from providing airline
8 services shall be apportioned to this State by using a
9 fraction, (a) the numerator of which shall be arrivals of
10 aircraft to and departures from this State weighted as to
11 cost of aircraft by type and (b) the denominator of which
12 shall be total arrivals and departures of aircraft weighted
13 as to cost of aircraft by type. If a person derives
14 business income from activities in addition to the
15 provision of airline services, this subsection shall apply
16 only to its business income from airline services and its
17 other business income shall be apportioned to this State
18 under the applicable provisions of this Section.

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

25 (f) Alternative allocation. If the allocation and
26 apportionment provisions of subsections (a) through (e) and of

1 subsection (h) do not fairly represent the extent of a person's
2 business activity in this State, the person may petition for,
3 or the Director may, without a petition, permit or require, in
4 respect of all or any part of the person's business activity,
5 if reasonable:

6 (1) Separate accounting;

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

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

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

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

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

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

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

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

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

10 (Source: P.A. 94-247, eff. 1-1-06.)

11 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

12 Sec. 502. Returns and notices.

13 (a) In general. A return with respect to the taxes imposed
14 by this Act shall be made by every person for any taxable year:

15 (1) for which such person is liable for a tax imposed
16 by this Act, or

17 (2) in the case of a resident or in the case of a
18 corporation which is qualified to do business in this
19 State, for which such person is required to make a federal
20 income tax return, regardless of whether such person is
21 liable for a tax imposed by this Act. However, this
22 paragraph shall not require a resident to make a return if
23 such person has an Illinois base income of the basic amount
24 in Section 204(b) or less and is either claimed as a
25 dependent on another person's tax return under the Internal

1 Revenue Code of 1986, or is claimed as a dependent on
2 another person's tax return under this Act.

3 Notwithstanding the provisions of paragraph (1), a
4 nonresident whose Illinois income tax liability under
5 subsections (a), (b), (c), and (d) of Section 201 of this Act
6 is paid in full after taking into account the credits allowed
7 under subsection (f) of this Section or allowed under Section
8 709.5 of this Act shall not be required to file a return under
9 this subsection (a).

10 (b) Fiduciaries and receivers.

11 (1) Decedents. If an individual is deceased, any return
12 or notice required of such individual under this Act shall
13 be made by his executor, administrator, or other person
14 charged with the property of such decedent.

15 (2) Individuals under a disability. If an individual is
16 unable to make a return or notice required under this Act,
17 the return or notice required of such individual shall be
18 made by his duly authorized agent, guardian, fiduciary or
19 other person charged with the care of the person or
20 property of such individual.

21 (3) Estates and trusts. Returns or notices required of
22 an estate or a trust shall be made by the fiduciary
23 thereof.

24 (4) Receivers, trustees and assignees for
25 corporations. In a case where a receiver, trustee in
26 bankruptcy, or assignee, by order of a court of competent

1 jurisdiction, by operation of law, or otherwise, has
2 possession of or holds title to all or substantially all
3 the property or business of a corporation, whether or not
4 such property or business is being operated, such receiver,
5 trustee, or assignee shall make the returns and notices
6 required of such corporation in the same manner and form as
7 corporations are required to make such returns and notices.

8 (c) Joint returns by husband and wife.

9 (1) Except as provided in paragraph (3), if a husband
10 and wife file a joint federal income tax return for a
11 taxable year they shall file a joint return under this Act
12 for such taxable year and their liabilities shall be joint
13 and several, but if the federal income tax liability of
14 either spouse is determined on a separate federal income
15 tax return, they shall file separate returns under this
16 Act.

17 (2) If neither spouse is required to file a federal
18 income tax return and either or both are required to file a
19 return under this Act, they may elect to file separate or
20 joint returns and pursuant to such election their
21 liabilities shall be separate or joint and several.

22 (3) If either husband or wife is a resident and the
23 other is a nonresident, they shall file separate returns in
24 this State on such forms as may be required by the
25 Department in which event their tax liabilities shall be
26 separate; but they may elect to determine their joint net

1 income and file a joint return as if both were residents
2 and in such case, their liabilities shall be joint and
3 several.

4 (4) Innocent spouses.

5 (A) However, for tax liabilities arising and paid
6 prior to August 13, 1999, an innocent spouse shall be
7 relieved of liability for tax (including interest and
8 penalties) for any taxable year for which a joint
9 return has been made, upon submission of proof that the
10 Internal Revenue Service has made a determination
11 under Section 6013(e) of the Internal Revenue Code, for
12 the same taxable year, which determination relieved
13 the spouse from liability for federal income taxes. If
14 there is no federal income tax liability at issue for
15 the same taxable year, the Department shall rely on the
16 provisions of Section 6013(e) to determine whether the
17 person requesting innocent spouse abatement of tax,
18 penalty, and interest is entitled to that relief.

19 (B) For tax liabilities arising on and after August
20 13, 1999 or which arose prior to that date, but remain
21 unpaid as of that date, if an individual who filed a
22 joint return for any taxable year has made an election
23 under this paragraph, the individual's liability for
24 any tax shown on the joint return shall not exceed the
25 individual's separate return amount and the
26 individual's liability for any deficiency assessed for

1 that taxable year shall not exceed the portion of the
2 deficiency properly allocable to the individual. For
3 purposes of this paragraph:

4 (i) An election properly made pursuant to
5 Section 6015 of the Internal Revenue Code shall
6 constitute an election under this paragraph,
7 provided that the election shall not be effective
8 until the individual has notified the Department
9 of the election in the form and manner prescribed
10 by the Department.

11 (ii) If no election has been made under Section
12 6015, the individual may make an election under
13 this paragraph in the form and manner prescribed by
14 the Department, provided that no election may be
15 made if the Department finds that assets were
16 transferred between individuals filing a joint
17 return as part of a scheme by such individuals to
18 avoid payment of Illinois income tax and the
19 election shall not eliminate the individual's
20 liability for any portion of a deficiency
21 attributable to an error on the return of which the
22 individual had actual knowledge as of the date of
23 filing.

24 (iii) In determining the separate return
25 amount or portion of any deficiency attributable
26 to an individual, the Department shall follow the

1 provisions in subsections (c) and (d) of Section
2 6015 of the Internal Revenue Code.

3 (iv) In determining the validity of an
4 individual's election under subparagraph (ii) and
5 in determining an electing individual's separate
6 return amount or portion of any deficiency under
7 subparagraph (iii), any determination made by the
8 Secretary of the Treasury, by the United States Tax
9 Court on petition for review of a determination by
10 the Secretary of the Treasury, or on appeal from
11 the United States Tax Court under Section 6015 of
12 the Internal Revenue Code regarding criteria for
13 eligibility or under subsection (d) of Section
14 6015 of the Internal Revenue Code regarding the
15 allocation of any item of income, deduction,
16 payment, or credit between an individual making
17 the federal election and that individual's spouse
18 shall be conclusively presumed to be correct. With
19 respect to any item that is not the subject of a
20 determination by the Secretary of the Treasury or
21 the federal courts, in any proceeding involving
22 this subsection, the individual making the
23 election shall have the burden of proof with
24 respect to any item except that the Department
25 shall have the burden of proof with respect to
26 items in subdivision (ii).

1 (v) Any election made by an individual under
2 this subsection shall apply to all years for which
3 that individual and the spouse named in the
4 election have filed a joint return.

5 (vi) After receiving a notice that the federal
6 election has been made or after receiving an
7 election under subdivision (ii), the Department
8 shall take no collection action against the
9 electing individual for any liability arising from
10 a joint return covered by the election until the
11 Department has notified the electing individual in
12 writing that the election is invalid or of the
13 portion of the liability the Department has
14 allocated to the electing individual. Within 60
15 days (150 days if the individual is outside the
16 United States) after the issuance of such
17 notification, the individual may file a written
18 protest of the denial of the election or of the
19 Department's determination of the liability
20 allocated to him or her and shall be granted a
21 hearing within the Department under the provisions
22 of Section 908. If a protest is filed, the
23 Department shall take no collection action against
24 the electing individual until the decision
25 regarding the protest has become final under
26 subsection (d) of Section 908 or, if

1 administrative review of the Department's decision
2 is requested under Section 1201, until the
3 decision of the court becomes final.

4 (d) Partnerships. Every partnership having any base income
5 allocable to this State in accordance with section 305(c) shall
6 retain information concerning all items of income, gain, loss
7 and deduction; the names and addresses of all of the partners,
8 or names and addresses of members of a limited liability
9 company, or other persons who would be entitled to share in the
10 base income of the partnership if distributed; the amount of
11 the distributive share of each; and such other pertinent
12 information as the Department may by forms or regulations
13 prescribe. The partnership shall make that information
14 available to the Department when requested by the Department.

15 (e) For taxable years ending on or after December 31, 1985,
16 and before December 31, 1993, taxpayers that are corporations
17 (other than Subchapter S corporations) having the same taxable
18 year and that are members of the same unitary business group
19 may elect to be treated as one taxpayer for purposes of any
20 original return, amended return which includes the same
21 taxpayers of the unitary group which joined in the election to
22 file the original return, extension, claim for refund,
23 assessment, collection and payment and determination of the
24 group's tax liability under this Act. This subsection (e) does
25 not permit the election to be made for some, but not all, of
26 the purposes enumerated above. For taxable years ending on or

1 after December 31, 1987, corporate members (other than
2 Subchapter S corporations) of the same unitary business group
3 making this subsection (e) election are not required to have
4 the same taxable year.

5 For taxable years ending on or after December 31, 1993,
6 taxpayers that are corporations (other than Subchapter S
7 corporations) and that are members of the same unitary business
8 group shall be treated as one taxpayer for purposes of any
9 original return, amended return which includes the same
10 taxpayers of the unitary group which joined in filing the
11 original return, extension, claim for refund, assessment,
12 collection and payment and determination of the group's tax
13 liability under this Act.

14 (f) The Department may promulgate regulations to permit
15 nonresident individual partners of the same partnership,
16 nonresident Subchapter S corporation shareholders of the same
17 Subchapter S corporation, and nonresident individuals
18 transacting an insurance business in Illinois under a Lloyds
19 plan of operation, and nonresident individual members of the
20 same limited liability company that is treated as a partnership
21 under Section 1501 (a)(16) of this Act, to file composite
22 individual income tax returns reflecting the composite income
23 of such individuals allocable to Illinois and to make composite
24 individual income tax payments. The Department may by
25 regulation also permit such composite returns to include the
26 income tax owed by Illinois residents attributable to their

1 income from partnerships, Subchapter S corporations, insurance
2 businesses organized under a Lloyds plan of operation, or
3 limited liability companies that are treated as partnership
4 under Section 1501(a)(16) of this Act, in which case such
5 Illinois residents will be permitted to claim credits on their
6 individual returns for their shares of the composite tax
7 payments. This paragraph of subsection (f) applies to taxable
8 years ending on or after December 31, 1987.

9 For taxable years ending on or after December 31, 1999, the
10 Department may, by regulation, also permit any persons
11 transacting an insurance business organized under a Lloyds plan
12 of operation to file composite returns reflecting the income of
13 such persons allocable to Illinois and the tax rates applicable
14 to such persons under Section 201 and to make composite tax
15 payments and shall, by regulation, also provide that the income
16 and apportionment factors attributable to the transaction of an
17 insurance business organized under a Lloyds plan of operation
18 by any person joining in the filing of a composite return
19 shall, for purposes of allocating and apportioning income under
20 Article 3 of this Act and computing net income under Section
21 202 of this Act, be excluded from any other income and
22 apportionment factors of that person or of any unitary business
23 group, as defined in subdivision (a)(27) of Section 1501, to
24 which that person may belong.

25 For taxable years ending on or after December 31, 2008,
26 every nonresident shall be allowed a credit against his or her

1 liability under subsections (a) and (b) of Section 201 for any
2 amount of tax reported on a composite return and paid on his or
3 her behalf under this subsection (f). Residents (other than
4 persons transacting an insurance business organized under a
5 Lloyds plan of operation) may claim a credit for taxes reported
6 on a composite return and paid on their behalf under this
7 subsection (f) only as permitted by the Department by rule.

8 (f-5) For taxable years ending on or after December 31,
9 2008, the Department may adopt rules to provide that, when a
10 partnership or Subchapter S corporation has made an error in
11 determining the amount of any item of income, deduction,
12 addition, subtraction, or credit required to be reported on its
13 return that affects the liability imposed under this Act on a
14 partner or shareholder, the partnership or Subchapter S
15 corporation may report the changes in liabilities of its
16 partners or shareholders and claim a refund of the resulting
17 overpayments, or pay the resulting underpayments, on behalf of
18 its partners and shareholders.

19 (g) The Department may adopt rules to authorize the
20 electronic filing of any return required to be filed under this
21 Section.

22 (Source: P.A. 94-1074, eff. 12-26-06.)

23 (35 ILCS 5/709.5 new)

24 Sec. 709.5. Withholding by partnerships, Subchapter S
25 corporations, and trusts.

1 (a) In general. For each taxable year ending on or after
2 December 31, 2008, every partnership (other than a publicly
3 traded partnership under Section 7704 of the Internal Revenue
4 Code), Subchapter S corporation, and trust must withhold from
5 each nonresident partner, shareholder, or beneficiary (other
6 than a partner, shareholder, or beneficiary included on a
7 composite return filed by the partnership or Subchapter S
8 corporation for the taxable year under subsection (f) of
9 Section 502 of this Act) an amount equal to the distributable
10 share of the business income of the partnership, Subchapter S
11 corporation, or trust apportionable to Illinois of that
12 partner, shareholder, or beneficiary under Sections 702 and 704
13 and Subchapter S of the Internal Revenue Code, whether or not
14 distributed, multiplied by the applicable rates of tax for that
15 partner or shareholder under subsections (a) through (d) of
16 Section 201 of this Act.

17 (b) Credit for taxes withheld. Any amount withheld under
18 subsection (a) of this Section and paid to the Department shall
19 be treated as a payment of the estimated tax liability or of
20 the liability for withholding under this Section of the
21 partner, shareholder, or beneficiary to whom the income is
22 distributable for the taxable year in which that person
23 incurred a liability under this Act with respect to that
24 income.

1 Sec. 711. Payor's Return and Payment of Tax Withheld. (a)
2 In general. Every payor required to deduct and withhold tax
3 under Section 710 ~~(and until January 1, 1989, Sections 708 and~~
4 ~~709)~~ shall be subject to the same reporting requirements
5 regarding taxes withheld and the same monthly and quarter
6 monthly (weekly) payment requirements as an employer subject to
7 the provisions of Section 701. For purposes of monthly and
8 quarter monthly (weekly) payments, the total tax withheld under
9 Sections 701, ~~708, 709~~ and 710 shall be considered in the
10 aggregate.

11 (a-5) Every partnership, Subchapter S corporation, or
12 trust required to withhold tax under Section 709.5 shall report
13 the amounts withheld and the partners, shareholders, or
14 beneficiaries from whom the amounts were withheld, and pay over
15 the amount withheld, no later than the due date (without regard
16 to extensions) of the tax return of the partnership, Subchapter
17 S corporation, or trust for the taxable year.

18 (b) Information statement. Every payor required to deduct
19 and withhold tax under Section 710 ~~(and until January 1, 1989,~~
20 ~~Sections 708 and 709)~~ shall furnish in duplicate to each party
21 entitled to the credit for such withholding under subsection
22 (b) of Section 709.5 ~~(c) of Section 708, subsection (c) of~~
23 ~~Section 709,~~ and subsection (b) of Section 710, respectively,
24 on or before January 31 of the succeeding calendar year for
25 amounts withheld under Section 710 or the due date (without
26 regard to extensions) of the return of the partnership,

1 Subchapter S corporation, or trust for the taxable year for
2 amounts withheld under Section 709.5 for the taxable year, a
3 written statement in such form as the Department may by
4 regulation prescribe showing the amount of the payments, the
5 amount deducted and withheld as tax, and such other information
6 as the Department may prescribe. A copy of such statement shall
7 be filed by the party entitled to the credit for the
8 withholding under subsection (b) of Section 709.5 ~~(e) of~~
9 ~~Section 708, subsection (e) of Section 709,~~ or subsection (b)
10 of Section 710 with his return for the taxable year to which it
11 relates.

12 (Source: P.A. 85-299; 85-982.)

13 (35 ILCS 5/712) (from Ch. 120, par. 7-712)

14 Sec. 712. Payor's Liability For Withheld Taxes. Every payor
15 who deducts and withholds or is required to deduct and withhold
16 tax under Sections 709.5 or Section 710 ~~(and until January 1,~~
17 ~~1989, Sections 708 and 709)~~ is liable for such tax. For
18 purposes of assessment and collection, any amount withheld or
19 required to be withheld and paid over to the Department, and
20 any penalties and interest with respect thereto, shall be
21 considered the tax of the payor. Any amount of tax actually
22 deducted and withheld under Sections 709.5 or Section 710 ~~(and~~
23 ~~until January 1, 1989, Sections 708 and 709)~~ shall be held to
24 be a special fund in trust for the Department. No payee shall
25 have any right of action against his payor in respect of any

1 money deducted and withheld and paid over to the Department in
2 compliance or in intended compliance with Sections 709.5 or
3 ~~Section~~ 710 (and until January 1, 1989, Sections 708 and 709).
4 (Source: P.A. 85-299; 85-982.)

5 (35 ILCS 5/713) (from Ch. 120, par. 7-713)

6 Sec. 713. Payor's Failure To Withhold. If a payor fails to
7 deduct and withhold any amount of tax as required under
8 Sections 709.5 or Section 710 ~~(and until January 1, 1989,~~
9 ~~Sections 708 and 709)~~ and thereafter the tax on account of
10 which such amount was required to be deducted and withheld is
11 paid, such amount of tax shall not be collected from the payor,
12 but the payor shall not be relieved from liability for
13 penalties or interest otherwise applicable in respect of such
14 failure to deduct and withhold. For purposes of this Section,
15 the tax on account of which an amount is required to be
16 deducted and withheld is the tax of the individual or
17 individuals who are entitled to a credit under subsection (b)
18 of Section 709.5 ~~(c) of Section 708, subsection (c) of Section~~
19 ~~709,~~ or subsection (b) of Section 710 for the withheld tax.

20 (Source: P.A. 85-299; 85-982.)

21 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

22 Sec. 804. Failure to Pay Estimated Tax.

23 (a) In general. In case of any underpayment of estimated
24 tax by a taxpayer, except as provided in subsection (d) or (e),

1 the taxpayer shall be liable to a penalty in an amount
2 determined at the rate prescribed by Section 3-3 of the Uniform
3 Penalty and Interest Act upon the amount of the underpayment
4 (determined under subsection (b)) for each required
5 installment.

6 (b) Amount of underpayment. For purposes of subsection (a),
7 the amount of the underpayment shall be the excess of:

8 (1) the amount of the installment which would be
9 required to be paid under subsection (c), over

10 (2) the amount, if any, of the installment paid on or
11 before the last date prescribed for payment.

12 (c) Amount of Required Installments.

13 (1) Amount.

14 (A) In General. Except as provided in paragraph
15 (2), the amount of any required installment shall be
16 25% of the required annual payment.

17 (B) Required Annual Payment. For purposes of
18 subparagraph (A), the term "required annual payment"
19 means the lesser of

20 (i) 90% of the tax shown on the return for the
21 taxable year, or if no return is filed, 90% of the
22 tax for such year, or

23 (ii) 100% of the tax shown on the return of the
24 taxpayer for the preceding taxable year if a return
25 showing a liability for tax was filed by the
26 taxpayer for the preceding taxable year and such

1 preceding year was a taxable year of 12 months.

2 (2) Lower Required Installment where Annualized Income
3 Installment is Less Than Amount Determined Under Paragraph
4 (1).

5 (A) In General. In the case of any required
6 installment if a taxpayer establishes that the
7 annualized income installment is less than the amount
8 determined under paragraph (1),

9 (i) the amount of such required installment
10 shall be the annualized income installment, and

11 (ii) any reduction in a required installment
12 resulting from the application of this
13 subparagraph shall be recaptured by increasing the
14 amount of the next required installment determined
15 under paragraph (1) by the amount of such
16 reduction, and by increasing subsequent required
17 installments to the extent that the reduction has
18 not previously been recaptured under this clause.

19 (B) Determination of Annualized Income
20 Installment. In the case of any required installment,
21 the annualized income installment is the excess, if
22 any, of

23 (i) an amount equal to the applicable
24 percentage of the tax for the taxable year computed
25 by placing on an annualized basis the net income
26 for months in the taxable year ending before the

1 due date for the installment, over
 2 (ii) the aggregate amount of any prior
 3 required installments for the taxable year.

4 (C) Applicable Percentage.

5	In the case of the following	The applicable
6	required installments:	percentage is:
7	1st.....	22.5%
8	2nd.....	45%
9	3rd.....	67.5%
10	4th.....	90%

11 (D) Annualized Net Income; Individuals. For
 12 individuals, net income shall be placed on an
 13 annualized basis by:

14 (i) multiplying by 12, or in the case of a
 15 taxable year of less than 12 months, by the number
 16 of months in the taxable year, the net income
 17 computed without regard to the standard exemption
 18 for the months in the taxable year ending before
 19 the month in which the installment is required to
 20 be paid;

21 (ii) dividing the resulting amount by the
 22 number of months in the taxable year ending before
 23 the month in which such installment date falls; and

24 (iii) deducting from such amount the standard
 25 exemption allowable for the taxable year, such
 26 standard exemption being determined as of the last

1 date prescribed for payment of the installment.

2 (E) Annualized Net Income; Corporations. For
3 corporations, net income shall be placed on an
4 annualized basis by multiplying by 12 the taxable
5 income

6 (i) for the first 3 months of the taxable year,
7 in the case of the installment required to be paid
8 in the 4th month,

9 (ii) for the first 3 months or for the first 5
10 months of the taxable year, in the case of the
11 installment required to be paid in the 6th month,

12 (iii) for the first 6 months or for the first 8
13 months of the taxable year, in the case of the
14 installment required to be paid in the 9th month,
15 and

16 (iv) for the first 9 months or for the first 11
17 months of the taxable year, in the case of the
18 installment required to be paid in the 12th month
19 of the taxable year,

20 then dividing the resulting amount by the number of
21 months in the taxable year (3, 5, 6, 8, 9, or 11 as the
22 case may be).

23 (d) Exceptions. Notwithstanding the provisions of the
24 preceding subsections, the penalty imposed by subsection (a)
25 shall not be imposed if the taxpayer was not required to file
26 an Illinois income tax return for the preceding taxable year,

1 or, for individuals, if the taxpayer had no tax liability for
2 the preceding taxable year and such year was a taxable year of
3 12 months. The penalty imposed by subsection (a) shall also not
4 be imposed on any underpayments of estimated tax due before the
5 effective date of this amendatory Act of 1998 which
6 underpayments are solely attributable to the change in
7 apportionment from subsection (a) to subsection (h) of Section
8 304. The provisions of this amendatory Act of 1998 apply to tax
9 years ending on or after December 31, 1998.

10 (e) The penalty imposed for underpayment of estimated tax
11 by subsection (a) of this Section shall not be imposed to the
12 extent that the Director ~~Department~~ or his or her designate
13 determines, pursuant to Section 3-8 of the Uniform Penalty and
14 Interest Act that the penalty should not be imposed.

15 (f) Definition of tax. For purposes of subsections (b) and
16 (c), the term "tax" means the excess of the tax imposed under
17 Article 2 of this Act, over the amounts credited against such
18 tax under Sections 601(b) (3) and (4).

19 (g) Application of Section in case of tax withheld under
20 Article 7 ~~on compensation~~. For purposes of applying this
21 Section:

22 (1) in the case of an individual, tax withheld from
23 compensation ~~under Article 7~~ for the taxable year shall be
24 deemed a payment of estimated tax, and an equal part of
25 such amount shall be deemed paid on each installment date
26 for such taxable year, unless the taxpayer establishes the

1 dates on which all amounts were actually withheld, in which
2 case the amounts so withheld shall be deemed payments of
3 estimated tax on the dates on which such amounts were
4 actually withheld; ~~+~~

5 (2) amounts timely paid by a partnership, Subchapter S
6 corporation, or trust on behalf of a partner, shareholder,
7 or beneficiary pursuant to subsection (f) of Section 502 or
8 Section 709.5 and claimed as a payment of estimated tax
9 shall be deemed a payment of estimated tax made on the last
10 day of the taxable year of the partnership, Subchapter S
11 corporation, or trust for which the income from the
12 withholding is made was computed; and

13 (3) all other amounts pursuant to Article 7 shall be
14 deemed a payment of estimated tax on the date the payment
15 is made to the taxpayer of the amount from which the tax is
16 withheld.

17 (g-5) Amounts withheld under the State Salary and Annuity
18 Withholding Act. An individual who has amounts withheld under
19 paragraph (10) of Section 4 of the State Salary and Annuity
20 Withholding Act may elect to have those amounts treated as
21 payments of estimated tax made on the dates on which those
22 amounts are actually withheld.

23 (i) Short taxable year. The application of this Section to
24 taxable years of less than 12 months shall be in accordance
25 with regulations prescribed by the Department.

26 The changes in this Section made by Public Act 84-127 shall

1 apply to taxable years ending on or after January 1, 1986.

2 (Source: P.A. 90-448, eff. 8-16-97; 90-613, eff. 7-9-98.)

3 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

4 Sec. 911. Limitations on Claims for Refund.

5 (a) In general. Except as otherwise provided in this Act:

6 (1) A claim for refund shall be filed not later than 3
7 years after the date the return was filed (in the case of
8 returns required under Article 7 of this Act respecting any
9 amounts withheld as tax, not later than 3 years after the
10 15th day of the 4th month following the close of the
11 calendar year in which such withholding was made), or one
12 year after the date the tax was paid, whichever is the
13 later; and

14 (2) No credit or refund shall be allowed or made with
15 respect to the year for which the claim was filed unless
16 such claim is filed within such period.

17 (b) Federal changes.

18 (1) In general. In any case where notification of an
19 alteration is required by Section 506(b), a claim for
20 refund may be filed within 2 years after the date on which
21 such notification was due (regardless of whether such
22 notice was given), but the amount recoverable pursuant to a
23 claim filed under this Section shall be limited to the
24 amount of any overpayment resulting under this Act from
25 recomputation of the taxpayer's net income, net loss, or

1 Article 2 credits for the taxable year after giving effect
2 to the item or items reflected in the alteration required
3 to be reported.

4 (2) Tentative carryback adjustments paid before
5 January 1, 1974. If, as the result of the payment before
6 January 1, 1974 of a federal tentative carryback
7 adjustment, a notification of an alteration is required
8 under Section 506(b), a claim for refund may be filed at
9 any time before January 1, 1976, but the amount recoverable
10 pursuant to a claim filed under this Section shall be
11 limited to the amount of any overpayment resulting under
12 this Act from recomputation of the taxpayer's base income
13 for the taxable year after giving effect to the federal
14 alteration resulting from the tentative carryback
15 adjustment irrespective of any limitation imposed in
16 paragraph (1) of this subsection.

17 (c) Extension by agreement. Where, before the expiration of
18 the time prescribed in this section for the filing of a claim
19 for refund, both the Department and the claimant shall have
20 consented in writing to its filing after such time, such claim
21 may be filed at any time prior to the expiration of the period
22 agreed upon. The period so agreed upon may be extended by
23 subsequent agreements in writing made before the expiration of
24 the period previously agreed upon. In the case of a taxpayer
25 who is a partnership, Subchapter S corporation, or trust and
26 who enters into an agreement with the Department pursuant to

1 this subsection on or after January 1, 2003, a claim for refund
2 may be issued to the partners, shareholders, or beneficiaries
3 of the taxpayer at any time prior to the expiration of the
4 period agreed upon. Any refund allowed pursuant to the claim,
5 however, shall be limited to the amount of any overpayment of
6 tax due under this Act that results from recomputation of items
7 of income, deduction, credits, or other amounts of the taxpayer
8 that are taken into account by the partner, shareholder, or
9 beneficiary in computing its liability under this Act.

10 (d) Limit on amount of credit or refund.

11 (1) Limit where claim filed within 3-year period. If
12 the claim was filed by the claimant during the 3-year
13 period prescribed in subsection (a), the amount of the
14 credit or refund shall not exceed the portion of the tax
15 paid within the period, immediately preceding the filing of
16 the claim, equal to 3 years plus the period of any
17 extension of time for filing the return.

18 (2) Limit where claim not filed within 3-year period.
19 If the claim was not filed within such 3-year period, the
20 amount of the credit or refund shall not exceed the portion
21 of the tax paid during the one year immediately preceding
22 the filing of the claim.

23 (e) Time return deemed filed. For purposes of this section
24 a tax return filed before the last day prescribed by law for
25 the filing of such return (including any extensions thereof)
26 shall be deemed to have been filed on such last day.

1 (f) No claim for refund based on the taxpayer's taking a
2 credit for estimated tax payments as provided by Section
3 601(b)(2) or for any amount paid by a taxpayer pursuant to
4 Section 602(a) or for any amount of credit for tax withheld
5 pursuant to Article 7 ~~Section 701~~ may be filed more than 3
6 years after the due date, as provided by Section 505, of the
7 return which was required to be filed relative to the taxable
8 year for which the payments were made or for which the tax was
9 withheld. The changes in this subsection (f) made by this
10 amendatory Act of 1987 shall apply to all taxable years ending
11 on or after December 31, 1969.

12 (g) Special Period of Limitation with Respect to Net Loss
13 Carrybacks. If the claim for refund relates to an overpayment
14 attributable to a net loss carryback as provided by Section
15 207, in lieu of the 3 year period of limitation prescribed in
16 subsection (a), the period shall be that period which ends 3
17 years after the time prescribed by law for filing the return
18 (including extensions thereof) for the taxable year of the net
19 loss which results in such carryback (or, on and after August
20 13, 1999, with respect to a change in the carryover of an
21 Article 2 credit to a taxable year resulting from the carryback
22 of a Section 207 loss incurred in a taxable year beginning on
23 or after January 1, 2000, the period shall be that period that
24 ends 3 years after the time prescribed by law for filing the
25 return (including extensions of that time) for that subsequent
26 taxable year), or the period prescribed in subsection (c) in

1 respect of such taxable year, whichever expires later. In the
2 case of such a claim, the amount of the refund may exceed the
3 portion of the tax paid within the period provided in
4 subsection (d) to the extent of the amount of the overpayment
5 attributable to such carryback. On and after August 13, 1999,
6 if the claim for refund relates to an overpayment attributable
7 to the carryover of an Article 2 credit, or of a Section 207
8 loss, earned, incurred (in a taxable year beginning on or after
9 January 1, 2000), or used in a year for which a notification of
10 a change affecting federal taxable income must be filed under
11 subsection (b) of Section 506, the claim may be filed within
12 the period prescribed in paragraph (1) of subsection (b) in
13 respect of the year for which the notification is required. In
14 the case of such a claim, the amount of the refund may exceed
15 the portion of the tax paid within the period provided in
16 subsection (d) to the extent of the amount of the overpayment
17 attributable to the recomputation of the taxpayer's Article 2
18 credits, or Section 207 loss, earned, incurred, or used in the
19 taxable year for which the notification is given.

20 (h) Claim for refund based on net loss. On and after August
21 23, 2002, no claim for refund shall be allowed to the extent
22 the refund is the result of an amount of net loss incurred in
23 any taxable year ending prior to December 31, 2002 under
24 Section 207 of this Act that was not reported to the Department
25 within 3 years of the due date (including extensions) of the
26 return for the loss year on either the original return filed by

1 the taxpayer or on amended return or to the extent that the
2 refund is the result of an amount of net loss incurred in any
3 taxable year under Section 207 for which no return was filed
4 within 3 years of the due date (including extensions) of the
5 return for the loss year.

6 (Source: P.A. 94-836, eff. 6-6-06.)

7 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

8 Sec. 1501. Definitions.

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

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

22 (1.5) Captive real estate investment trust:

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

25 (i) that is considered a real estate investment

1 trust for the taxable year under Section 856 of the
2 Internal Revenue Code;

3 (ii) that is not regularly traded on an established
4 securities market; and

5 (iii) of which more than 50% of the voting power or
6 value of the beneficial interest or shares, at any time
7 during the last half of the taxable year, is owned or
8 controlled, directly or indirectly, by a single entity
9 that is subject to the provisions of Subchapter C of
10 Chapter 1 of the Internal Revenue Code.

11 (B) The term "captive real estate investment trust"
12 does not include:

13 (i) a corporation, trust, or association of which
14 more than 50% of the voting power or value of the
15 beneficial interest or shares is owned or controlled,
16 at any time during which the corporation, trust, or
17 association satisfies item (A) (iii) of this subsection
18 (1.5), by:

19 (a) a real estate investment trust, other than
20 a real estate investment trust described in item
21 (A) of this subsection;

22 (b) a person who is exempt from taxation under
23 Section 501 of the Internal Revenue Code;

24 (c) a listed Australian property trust; or

25 (d) a real estate investment trust that,
26 subject to rules of the Secretary of State, is

1 intended to become regularly traded on an
2 established securities market and that satisfies
3 the requirements of Sections 856(A)(5) and
4 856(A)(6) of the Internal Revenue Code by reason of
5 Section 856(H)(2) of the Internal Revenue Code.

6 (C) For the purposes of this subsection (1.5), the
7 constructive ownership rules prescribed under Section
8 318(A) of the Internal Revenue Code, as modified by Section
9 856(D)(5) of the Internal Revenue Code, apply in
10 determining the ownership of stock, assets, or net profits
11 of any person.

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

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

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

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

26 (6) Director. The term "Director" means the Director of

1 Revenue of this State.

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

5 (8) Financial organization.

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

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

1 (ii) any federally or State chartered bank operating as
2 a credit card bank.

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

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

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

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

26 (c) the outstanding balance of a contract

1 or agreement described in provisions (a) or (b)
2 of this item (i).

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

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

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

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

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

21 (c) the total of all shareholder's equity
22 (including, without limitation, paid-in
23 capital on common and preferred stock and
24 retained earnings) of the corporation plus the
25 total of all of its loans, advances, and other
26 obligations payable or owed to members of its

1 affiliated group may not exceed 20% of the
2 total assets of the corporation at any time
3 during the tax year; and

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

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

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

25 (E) For all tax years beginning on or before
26 December 31, 1996, a taxpayer that falls within the

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

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

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

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

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

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

17 (11.5) Investment partnership.

18 (A) The term "investment partnership" means any
19 entity that is treated as a partnership for federal
20 income tax purposes that meets the following
21 requirements:

22 (i) no less than 90% of the partnership's cost
23 of its total assets consists of qualifying
24 investment securities, deposits at banks or other
25 financial institutions, and office space and
26 equipment reasonably necessary to carry on its

1 activities as an investment partnership;

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

6 (iii) the partnership is not a dealer in
7 qualifying investment securities.

8 (B) For purposes of this paragraph (11.5), the term
9 "qualifying investment securities" includes all of the
10 following:

11 (i) common stock, including preferred or debt
12 securities convertible into common stock, and
13 preferred stock;

14 (ii) bonds, debentures, and other debt
15 securities;

16 (iii) foreign and domestic currency deposits
17 secured by federal, state, or local governmental
18 agencies;

19 (iv) mortgage or asset-backed securities
20 secured by federal, state, or local governmental
21 agencies;

22 (v) repurchase agreements and loan
23 participations;

24 (vi) foreign currency exchange contracts and
25 forward and futures contracts on foreign
26 currencies;

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

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

9 (ix) regulated futures contracts;

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

18 (xi) derivatives; and

19 (xii) a partnership interest in another
20 partnership that is an investment partnership.

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

25 (A) arithmetic errors or incorrect computations on
26 the return or supporting schedules;

1 (B) entries on the wrong lines;

2 (C) omission of required supporting forms or
3 schedules or the omission of the information in whole
4 or in part called for thereon; and

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

9 (13) Nonbusiness income. The term "nonbusiness income"
10 means all income other than business income or
11 compensation.

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

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

18 (16) Partnership and partner. The term "partnership"
19 includes a syndicate, group, pool, joint venture or other
20 unincorporated organization, through or by means of which
21 any business, financial operation, or venture is carried
22 on, and which is not, within the meaning of this Act, a
23 trust or estate or a corporation; and the term "partner"
24 includes a member in such syndicate, group, pool, joint
25 venture or organization.

26 The term "partnership" includes any entity, including

1 a limited liability company formed under the Illinois
2 Limited Liability Company Act, classified as a partnership
3 for federal income tax purposes.

4 The term "partnership" does not include a syndicate,
5 group, pool, joint venture, or other unincorporated
6 organization established for the sole purpose of playing
7 the Illinois State Lottery.

8 (17) Part-year resident. The term "part-year resident"
9 means an individual who became a resident during the
10 taxable year or ceased to be a resident during the taxable
11 year. Under Section 1501(a)(20)(A)(i) residence commences
12 with presence in this State for other than a temporary or
13 transitory purpose and ceases with absence from this State
14 for other than a temporary or transitory purpose. Under
15 Section 1501(a)(20)(A)(ii) residence commences with the
16 establishment of domicile in this State and ceases with the
17 establishment of domicile in another State.

18 (18) Person. The term "person" shall be construed to
19 mean and include an individual, a trust, estate,
20 partnership, association, firm, company, corporation,
21 limited liability company, or fiduciary. For purposes of
22 Section 1301 and 1302 of this Act, a "person" means (i) an
23 individual, (ii) a corporation, (iii) an officer, agent, or
24 employee of a corporation, (iv) a member, agent or employee
25 of a partnership, or (v) a member, manager, employee,
26 officer, director, or agent of a limited liability company

1 who in such capacity commits an offense specified in
2 Section 1301 and 1302.

3 (18A) Records. The term "records" includes all data
4 maintained by the taxpayer, whether on paper, microfilm,
5 microfiche, or any type of machine-sensible data
6 compilation.

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

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

10 (A) an individual (i) who is in this State for
11 other than a temporary or transitory purpose during the
12 taxable year; or (ii) who is domiciled in this State
13 but is absent from the State for a temporary or
14 transitory purpose during the taxable year;

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

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

19 (D) An irrevocable trust, the grantor of which was
20 domiciled in this State at the time such trust became
21 irrevocable. For purpose of this subparagraph, a trust
22 shall be considered irrevocable to the extent that the
23 grantor is not treated as the owner thereof under
24 Sections 671 through 678 of the Internal Revenue Code.

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

1 303.

2 (22) State. The term "state" when applied to a
3 jurisdiction other than this State means any state of the
4 United States, the District of Columbia, the Commonwealth
5 of Puerto Rico, any Territory or Possession of the United
6 States, and any foreign country, or any political
7 subdivision of any of the foregoing. For purposes of the
8 foreign tax credit under Section 601, the term "state"
9 means any state of the United States, the District of
10 Columbia, the Commonwealth of Puerto Rico, and any
11 territory or possession of the United States, or any
12 political subdivision of any of the foregoing, effective
13 for tax years ending on or after December 31, 1989.

14 (23) Taxable year. The term "taxable year" means the
15 calendar year, or the fiscal year ending during such
16 calendar year, upon the basis of which the base income is
17 computed under this Act. "Taxable year" means, in the case
18 of a return made for a fractional part of a year under the
19 provisions of this Act, the period for which such return is
20 made.

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

23 (25) International banking facility. The term
24 international banking facility shall have the same meaning
25 as is set forth in the Illinois Banking Act or as is set
26 forth in the laws of the United States or regulations of

1 the Board of Governors of the Federal Reserve System.

2 (26) Income Tax Return Preparer.

3 (A) The term "income tax return preparer" means any
4 person who prepares for compensation, or who employs
5 one or more persons to prepare for compensation, any
6 return of tax imposed by this Act or any claim for
7 refund of tax imposed by this Act. The preparation of a
8 substantial portion of a return or claim for refund
9 shall be treated as the preparation of that return or
10 claim for refund.

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

13 (i) furnish typing, reproducing, or other
14 mechanical assistance;

15 (ii) prepare returns or claims for refunds for
16 the employer by whom he or she is regularly and
17 continuously employed;

18 (iii) prepare as a fiduciary returns or claims
19 for refunds for any person; or

20 (iv) prepare claims for refunds for a taxpayer
21 in response to any notice of deficiency issued to
22 that taxpayer or in response to any waiver of
23 restriction after the commencement of an audit of
24 that taxpayer or of another taxpayer if a
25 determination in the audit of the other taxpayer
26 directly or indirectly affects the tax liability

1 of the taxpayer whose claims he or she is
2 preparing.

3 (27) Unitary business group. The term "unitary
4 business group" means a group of persons related through
5 common ownership whose business activities are integrated
6 with, dependent upon and contribute to each other. The
7 group will not include those members whose business
8 activity outside the United States is 80% or more of any
9 such member's total business activity; for purposes of this
10 paragraph and clause (a)(3)(B)(ii) of Section 304,
11 business activity within the United States shall be
12 measured by means of the factors ordinarily applicable
13 under subsections (a), (b), (c), (d), or (h) of Section 304
14 except that, in the case of members ordinarily required to
15 apportion business income by means of the 3 factor formula
16 of property, payroll and sales specified in subsection (a)
17 of Section 304, including the formula as weighted in
18 subsection (h) of Section 304, such members shall not use
19 the sales factor in the computation and the results of the
20 property and payroll factor computations of subsection (a)
21 of Section 304 shall be divided by 2 (by one if either the
22 property or payroll factor has a denominator of zero). The
23 computation required by the preceding sentence shall, in
24 each case, involve the division of the member's property,
25 payroll, or revenue miles in the United States, insurance
26 premiums on property or risk in the United States, or

1 financial organization business income from sources within
2 the United States, as the case may be, by the respective
3 worldwide figures for such items. Common ownership in the
4 case of corporations is the direct or indirect control or
5 ownership of more than 50% of the outstanding voting stock
6 of the persons carrying on unitary business activity.
7 Unitary business activity can ordinarily be illustrated
8 where the activities of the members are: (1) in the same
9 general line (such as manufacturing, wholesaling,
10 retailing of tangible personal property, insurance,
11 transportation or finance); or (2) are steps in a
12 vertically structured enterprise or process (such as the
13 steps involved in the production of natural resources,
14 which might include exploration, mining, refining, and
15 marketing); and, in either instance, the members are
16 functionally integrated through the exercise of strong
17 centralized management (where, for example, authority over
18 such matters as purchasing, financing, tax compliance,
19 product line, personnel, marketing and capital investment
20 is not left to each member). In no event, however, will any
21 unitary business group include members which are
22 ordinarily required to apportion business income under
23 different subsections of Section 304 except that for tax
24 years ending on or after December 31, 1987 this prohibition
25 shall not apply to a unitary business group composed of one
26 or more taxpayers all of which apportion business income

1 pursuant to subsection (b) of Section 304, or all of which
2 apportion business income pursuant to subsection (d) of
3 Section 304, and a holding company of such single-factor
4 taxpayers (see definition of "financial organization" for
5 rule regarding holding companies of financial
6 organizations). If a unitary business group would, but for
7 the preceding sentence, include members that are
8 ordinarily required to apportion business income under
9 different subsections of Section 304, then for each
10 subsection of Section 304 for which there are two or more
11 members, there shall be a separate unitary business group
12 composed of such members. For purposes of the preceding two
13 sentences, a member is "ordinarily required to apportion
14 business income" under a particular subsection of Section
15 304 if it would be required to use the apportionment method
16 prescribed by such subsection except for the fact that it
17 derives business income solely from Illinois. As used in
18 this paragraph, the phrase "United States" means only the
19 50 states and the District of Columbia, but does not
20 include any territory or possession of the United States or
21 any area over which the United States has asserted
22 jurisdiction or claimed exclusive rights with respect to
23 the exploration for or exploitation of natural resources.

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

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

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

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

25 (b) Other definitions.

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

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

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

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

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

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

20 (Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04.)

21 Section 10-10. The Retailers' Occupation Tax Act is amended
22 by changing Section 2-5 as follows:

23 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

24 Sec. 2-5. Exemptions. Gross receipts from proceeds from the

1 sale of the following tangible personal property are exempt
2 from the tax imposed by this Act:

3 (1) Farm chemicals.

4 (2) Farm machinery and equipment, both new and used,
5 including that manufactured on special order, certified by the
6 purchaser to be used primarily for production agriculture or
7 State or federal agricultural programs, including individual
8 replacement parts for the machinery and equipment, including
9 machinery and equipment purchased for lease, and including
10 implements of husbandry defined in Section 1-130 of the
11 Illinois Vehicle Code, farm machinery and agricultural
12 chemical and fertilizer spreaders, and nurse wagons required to
13 be registered under Section 3-809 of the Illinois Vehicle Code,
14 but excluding other motor vehicles required to be registered
15 under the Illinois Vehicle Code. Horticultural polyhouses or
16 hoop houses used for propagating, growing, or overwintering
17 plants shall be considered farm machinery and equipment under
18 this item (2). Agricultural chemical tender tanks and dry boxes
19 shall include units sold separately from a motor vehicle
20 required to be licensed and units sold mounted on a motor
21 vehicle required to be licensed, if the selling price of the
22 tender is separately stated.

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

5 Farm machinery and equipment also includes computers,
6 sensors, software, and related equipment used primarily in the
7 computer-assisted operation of production agriculture
8 facilities, equipment, and activities such as, but not limited
9 to, the collection, monitoring, and correlation of animal and
10 crop data for the purpose of formulating animal diets and
11 agricultural chemicals. This item (7) is exempt from the
12 provisions of Section 2-70.

13 (3) Until July 1, 2003, distillation machinery and
14 equipment, sold as a unit or kit, assembled or installed by the
15 retailer, certified by the user to be used only for the
16 production of ethyl alcohol that will be used for consumption
17 as motor fuel or as a component of motor fuel for the personal
18 use of the user, and not subject to sale or resale.

19 (4) Until July 1, 2003 and beginning again September 1,
20 2004, graphic arts machinery and equipment, including repair
21 and replacement parts, both new and used, and including that
22 manufactured on special order or purchased for lease, certified
23 by the purchaser to be used primarily for graphic arts
24 production. Equipment includes chemicals or chemicals acting
25 as catalysts but only if the chemicals or chemicals acting as
26 catalysts effect a direct and immediate change upon a graphic

1 arts product.

2 (5) (Blank). ~~A motor vehicle of the first division, a motor~~
3 ~~vehicle of the second division that is a self-contained motor~~
4 ~~vehicle designed or permanently converted to provide living~~
5 ~~quarters for recreational, camping, or travel use, with direct~~
6 ~~walk through access to the living quarters from the driver's~~
7 ~~seat, or a motor vehicle of the second division that is of the~~
8 ~~van configuration designed for the transportation of not less~~
9 ~~than 7 nor more than 16 passengers, as defined in Section 1-146~~
10 ~~of the Illinois Vehicle Code, that is used for automobile~~
11 ~~renting, as defined in the Automobile Renting Occupation and~~
12 ~~Use Tax Act.~~

13 (6) Personal property sold by a teacher-sponsored student
14 organization affiliated with an elementary or secondary school
15 located in Illinois.

16 (7) Until July 1, 2003, proceeds of that portion of the
17 selling price of a passenger car the sale of which is subject
18 to the Replacement Vehicle Tax.

19 (8) Personal property sold to an Illinois county fair
20 association for use in conducting, operating, or promoting the
21 county fair.

22 (9) Personal property sold to a not-for-profit arts or
23 cultural organization that establishes, by proof required by
24 the Department by rule, that it has received an exemption under
25 Section 501(c)(3) of the Internal Revenue Code and that is
26 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or
2 services. These organizations include, but are not limited to,
3 music and dramatic arts organizations such as symphony
4 orchestras and theatrical groups, arts and cultural service
5 organizations, local arts councils, visual arts organizations,
6 and media arts organizations. On and after the effective date
7 of this amendatory Act of the 92nd General Assembly, however,
8 an entity otherwise eligible for this exemption shall not make
9 tax-free purchases unless it has an active identification
10 number issued by the Department.

11 (10) Personal property sold by a corporation, society,
12 association, foundation, institution, or organization, other
13 than a limited liability company, that is organized and
14 operated as a not-for-profit service enterprise for the benefit
15 of persons 65 years of age or older if the personal property
16 was not purchased by the enterprise for the purpose of resale
17 by the enterprise.

18 (11) Personal property sold to a governmental body, to a
19 corporation, society, association, foundation, or institution
20 organized and operated exclusively for charitable, religious,
21 or educational purposes, or to a not-for-profit corporation,
22 society, association, foundation, institution, or organization
23 that has no compensated officers or employees and that is
24 organized and operated primarily for the recreation of persons
25 55 years of age or older. A limited liability company may
26 qualify for the exemption under this paragraph only if the

1 limited liability company is organized and operated
2 exclusively for educational purposes. On and after July 1,
3 1987, however, no entity otherwise eligible for this exemption
4 shall make tax-free purchases unless it has an active
5 identification number issued by the Department.

6 (12) Tangible personal property sold to interstate
7 carriers for hire for use as rolling stock moving in interstate
8 commerce or to lessors under leases of one year or longer
9 executed or in effect at the time of purchase by interstate
10 carriers for hire for use as rolling stock moving in interstate
11 commerce and equipment operated by a telecommunications
12 provider, licensed as a common carrier by the Federal
13 Communications Commission, which is permanently installed in
14 or affixed to aircraft moving in interstate commerce.

15 (12-5) On and after July 1, 2003 and through June 30, 2004,
16 motor vehicles of the second division with a gross vehicle
17 weight in excess of 8,000 pounds that are subject to the
18 commercial distribution fee imposed under Section 3-815.1 of
19 the Illinois Vehicle Code. Beginning on July 1, 2004 and
20 through June 30, 2005, the use in this State of motor vehicles
21 of the second division: (i) with a gross vehicle weight rating
22 in excess of 8,000 pounds; (ii) that are subject to the
23 commercial distribution fee imposed under Section 3-815.1 of
24 the Illinois Vehicle Code; and (iii) that are primarily used
25 for commercial purposes. Through June 30, 2005, this exemption
26 applies to repair and replacement parts added after the initial

1 purchase of such a motor vehicle if that motor vehicle is used
2 in a manner that would qualify for the rolling stock exemption
3 otherwise provided for in this Act. For purposes of this
4 paragraph, "used for commercial purposes" means the
5 transportation of persons or property in furtherance of any
6 commercial or industrial enterprise whether for-hire or not.

7 (13) Proceeds from sales to owners, lessors, or shippers of
8 tangible personal property that is utilized by interstate
9 carriers for hire for use as rolling stock moving in interstate
10 commerce and equipment operated by a telecommunications
11 provider, licensed as a common carrier by the Federal
12 Communications Commission, which is permanently installed in
13 or affixed to aircraft moving in interstate commerce.

14 (14) Machinery and equipment that will be used by the
15 purchaser, or a lessee of the purchaser, primarily in the
16 process of manufacturing or assembling tangible personal
17 property for wholesale or retail sale or lease, whether the
18 sale or lease is made directly by the manufacturer or by some
19 other person, whether the materials used in the process are
20 owned by the manufacturer or some other person, or whether the
21 sale or lease is made apart from or as an incident to the
22 seller's engaging in the service occupation of producing
23 machines, tools, dies, jigs, patterns, gauges, or other similar
24 items of no commercial value on special order for a particular
25 purchaser.

26 (15) Proceeds of mandatory service charges separately

1 stated on customers' bills for purchase and consumption of food
2 and beverages, to the extent that the proceeds of the service
3 charge are in fact turned over as tips or as a substitute for
4 tips to the employees who participate directly in preparing,
5 serving, hosting or cleaning up the food or beverage function
6 with respect to which the service charge is imposed.

7 (16) Petroleum products sold to a purchaser if the seller
8 is prohibited by federal law from charging tax to the
9 purchaser.

10 (17) Tangible personal property sold to a common carrier by
11 rail or motor that receives the physical possession of the
12 property in Illinois and that transports the property, or
13 shares with another common carrier in the transportation of the
14 property, out of Illinois on a standard uniform bill of lading
15 showing the seller of the property as the shipper or consignor
16 of the property to a destination outside Illinois, for use
17 outside Illinois.

18 (18) Legal tender, currency, medallions, or gold or silver
19 coinage issued by the State of Illinois, the government of the
20 United States of America, or the government of any foreign
21 country, and bullion.

22 (19) Until July 1 2003, oil field exploration, drilling,
23 and production equipment, including (i) rigs and parts of rigs,
24 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
25 tubular goods, including casing and drill strings, (iii) pumps
26 and pump-jack units, (iv) storage tanks and flow lines, (v) any

1 individual replacement part for oil field exploration,
2 drilling, and production equipment, and (vi) machinery and
3 equipment purchased for lease; but excluding motor vehicles
4 required to be registered under the Illinois Vehicle Code.

5 (20) Photoprocessing machinery and equipment, including
6 repair and replacement parts, both new and used, including that
7 manufactured on special order, certified by the purchaser to be
8 used primarily for photoprocessing, and including
9 photoprocessing machinery and equipment purchased for lease.

10 (21) Until July 1, 2003, coal exploration, mining,
11 offhighway hauling, processing, maintenance, and reclamation
12 equipment, including replacement parts and equipment, and
13 including equipment purchased for lease, but excluding motor
14 vehicles required to be registered under the Illinois Vehicle
15 Code.

16 (22) Fuel and petroleum products sold to or used by an air
17 carrier, certified by the carrier to be used for consumption,
18 shipment, or storage in the conduct of its business as an air
19 common carrier, for a flight destined for or returning from a
20 location or locations outside the United States without regard
21 to previous or subsequent domestic stopovers.

22 (23) A transaction in which the purchase order is received
23 by a florist who is located outside Illinois, but who has a
24 florist located in Illinois deliver the property to the
25 purchaser or the purchaser's donee in Illinois.

26 (24) Fuel consumed or used in the operation of ships,

1 barges, or vessels that are used primarily in or for the
2 transportation of property or the conveyance of persons for
3 hire on rivers bordering on this State if the fuel is delivered
4 by the seller to the purchaser's barge, ship, or vessel while
5 it is afloat upon that bordering river.

6 (25) Except as provided in item (25-5) of this Section, a
7 motor vehicle sold in this State to a nonresident even though
8 the motor vehicle is delivered to the nonresident in this
9 State, if the motor vehicle is not to be titled in this State,
10 and if a drive-away permit is issued to the motor vehicle as
11 provided in Section 3-603 of the Illinois Vehicle Code or if
12 the nonresident purchaser has vehicle registration plates to
13 transfer to the motor vehicle upon returning to his or her home
14 state. The issuance of the drive-away permit or having the
15 out-of-state registration plates to be transferred is prima
16 facie evidence that the motor vehicle will not be titled in
17 this State.

18 (25-5) The exemption under item (25) does not apply if the
19 state in which the motor vehicle will be titled does not allow
20 a reciprocal exemption for a motor vehicle sold and delivered
21 in that state to an Illinois resident but titled in Illinois.
22 The tax collected under this Act on the sale of a motor vehicle
23 in this State to a resident of another state that does not
24 allow a reciprocal exemption shall be imposed at a rate equal
25 to the state's rate of tax on taxable property in the state in
26 which the purchaser is a resident, except that the tax shall

1 not exceed the tax that would otherwise be imposed under this
2 Act. At the time of the sale, the purchaser shall execute a
3 statement, signed under penalty of perjury, of his or her
4 intent to title the vehicle in the state in which the purchaser
5 is a resident within 30 days after the sale and of the fact of
6 the payment to the State of Illinois of tax in an amount
7 equivalent to the state's rate of tax on taxable property in
8 his or her state of residence and shall submit the statement to
9 the appropriate tax collection agency in his or her state of
10 residence. In addition, the retailer must retain a signed copy
11 of the statement in his or her records. Nothing in this item
12 shall be construed to require the removal of the vehicle from
13 this state following the filing of an intent to title the
14 vehicle in the purchaser's state of residence if the purchaser
15 titles the vehicle in his or her state of residence within 30
16 days after the date of sale. The tax collected under this Act
17 in accordance with this item (25-5) shall be proportionately
18 distributed as if the tax were collected at the 6.25% general
19 rate imposed under this Act.

20 (26) Semen used for artificial insemination of livestock
21 for direct agricultural production.

22 (27) Horses, or interests in horses, registered with and
23 meeting the requirements of any of the Arabian Horse Club
24 Registry of America, Appaloosa Horse Club, American Quarter
25 Horse Association, United States Trotting Association, or
26 Jockey Club, as appropriate, used for purposes of breeding or

1 racing for prizes.

2 (28) Computers and communications equipment utilized for
3 any hospital purpose and equipment used in the diagnosis,
4 analysis, or treatment of hospital patients sold to a lessor
5 who leases the equipment, under a lease of one year or longer
6 executed or in effect at the time of the purchase, to a
7 hospital that has been issued an active tax exemption
8 identification number by the Department under Section 1g of
9 this Act.

10 (29) Personal property sold to a lessor who leases the
11 property, under a lease of one year or longer executed or in
12 effect at the time of the purchase, to a governmental body that
13 has been issued an active tax exemption identification number
14 by the Department under Section 1g of this Act.

15 (30) Beginning with taxable years ending on or after
16 December 31, 1995 and ending with taxable years ending on or
17 before December 31, 2004, personal property that is donated for
18 disaster relief to be used in a State or federally declared
19 disaster area in Illinois or bordering Illinois by a
20 manufacturer or retailer that is registered in this State to a
21 corporation, society, association, foundation, or institution
22 that has been issued a sales tax exemption identification
23 number by the Department that assists victims of the disaster
24 who reside within the declared disaster area.

25 (31) Beginning with taxable years ending on or after
26 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is used in the
2 performance of infrastructure repairs in this State, including
3 but not limited to municipal roads and streets, access roads,
4 bridges, sidewalks, waste disposal systems, water and sewer
5 line extensions, water distribution and purification
6 facilities, storm water drainage and retention facilities, and
7 sewage treatment facilities, resulting from a State or
8 federally declared disaster in Illinois or bordering Illinois
9 when such repairs are initiated on facilities located in the
10 declared disaster area within 6 months after the disaster.

11 (32) Beginning July 1, 1999, game or game birds sold at a
12 "game breeding and hunting preserve area" or an "exotic game
13 hunting area" as those terms are used in the Wildlife Code or
14 at a hunting enclosure approved through rules adopted by the
15 Department of Natural Resources. This paragraph is exempt from
16 the provisions of Section 2-70.

17 (33) A motor vehicle, as that term is defined in Section
18 1-146 of the Illinois Vehicle Code, that is donated to a
19 corporation, limited liability company, society, association,
20 foundation, or institution that is determined by the Department
21 to be organized and operated exclusively for educational
22 purposes. For purposes of this exemption, "a corporation,
23 limited liability company, society, association, foundation,
24 or institution organized and operated exclusively for
25 educational purposes" means all tax-supported public schools,
26 private schools that offer systematic instruction in useful

1 branches of learning by methods common to public schools and
2 that compare favorably in their scope and intensity with the
3 course of study presented in tax-supported schools, and
4 vocational or technical schools or institutes organized and
5 operated exclusively to provide a course of study of not less
6 than 6 weeks duration and designed to prepare individuals to
7 follow a trade or to pursue a manual, technical, mechanical,
8 industrial, business, or commercial occupation.

9 (34) Beginning January 1, 2000, personal property,
10 including food, purchased through fundraising events for the
11 benefit of a public or private elementary or secondary school,
12 a group of those schools, or one or more school districts if
13 the events are sponsored by an entity recognized by the school
14 district that consists primarily of volunteers and includes
15 parents and teachers of the school children. This paragraph
16 does not apply to fundraising events (i) for the benefit of
17 private home instruction or (ii) for which the fundraising
18 entity purchases the personal property sold at the events from
19 another individual or entity that sold the property for the
20 purpose of resale by the fundraising entity and that profits
21 from the sale to the fundraising entity. This paragraph is
22 exempt from the provisions of Section 2-70.

23 (35) Beginning January 1, 2000 and through December 31,
24 2001, new or used automatic vending machines that prepare and
25 serve hot food and beverages, including coffee, soup, and other
26 items, and replacement parts for these machines. Beginning

1 January 1, 2002 and through June 30, 2003, machines and parts
2 for machines used in commercial, coin-operated amusement and
3 vending business if a use or occupation tax is paid on the
4 gross receipts derived from the use of the commercial,
5 coin-operated amusement and vending machines. This paragraph
6 is exempt from the provisions of Section 2-70.

7 (35-5) Beginning August 23, 2001 and through June 30, 2011,
8 food for human consumption that is to be consumed off the
9 premises where it is sold (other than alcoholic beverages, soft
10 drinks, and food that has been prepared for immediate
11 consumption) and prescription and nonprescription medicines,
12 drugs, medical appliances, and insulin, urine testing
13 materials, syringes, and needles used by diabetics, for human
14 use, when purchased for use by a person receiving medical
15 assistance under Article 5 of the Illinois Public Aid Code who
16 resides in a licensed long-term care facility, as defined in
17 the Nursing Home Care Act.

18 (36) Beginning August 2, 2001, computers and
19 communications equipment utilized for any hospital purpose and
20 equipment used in the diagnosis, analysis, or treatment of
21 hospital patients sold to a lessor who leases the equipment,
22 under a lease of one year or longer executed or in effect at
23 the time of the purchase, to a hospital that has been issued an
24 active tax exemption identification number by the Department
25 under Section 1g of this Act. This paragraph is exempt from the
26 provisions of Section 2-70.

1 (37) Beginning August 2, 2001, personal property sold to a
2 lessor who leases the property, under a lease of one year or
3 longer executed or in effect at the time of the purchase, to a
4 governmental body that has been issued an active tax exemption
5 identification number by the Department under Section 1g of
6 this Act. This paragraph is exempt from the provisions of
7 Section 2-70.

8 (38) Beginning on January 1, 2002 and through June 30,
9 2011, tangible personal property purchased from an Illinois
10 retailer by a taxpayer engaged in centralized purchasing
11 activities in Illinois who will, upon receipt of the property
12 in Illinois, temporarily store the property in Illinois (i) for
13 the purpose of subsequently transporting it outside this State
14 for use or consumption thereafter solely outside this State or
15 (ii) for the purpose of being processed, fabricated, or
16 manufactured into, attached to, or incorporated into other
17 tangible personal property to be transported outside this State
18 and thereafter used or consumed solely outside this State. The
19 Director of Revenue shall, pursuant to rules adopted in
20 accordance with the Illinois Administrative Procedure Act,
21 issue a permit to any taxpayer in good standing with the
22 Department who is eligible for the exemption under this
23 paragraph (38). The permit issued under this paragraph (38)
24 shall authorize the holder, to the extent and in the manner
25 specified in the rules adopted under this Act, to purchase
26 tangible personal property from a retailer exempt from the

1 taxes imposed by this Act. Taxpayers shall maintain all
2 necessary books and records to substantiate the use and
3 consumption of all such tangible personal property outside of
4 the State of Illinois.

5 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
6 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;
7 94-1002, eff. 7-3-06.)

8 ARTICLE 99. EFFECTIVE DATE

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.