



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2912

Introduced 2/15/2008, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to provide that, if the Department determines that an overpayment has occurred on an original return filed under specified tax Acts, it shall issue a credit memorandum to the taxpayer without the necessity of the taxpayer filing a claim for credit. Amends Illinois State Collection Act of 1986 to remove provisions concerning the Debt Collection Board and makes conforming changes in the Illinois Procurement Code. Amends the Illinois Income Tax Act to (i) include a tax credit to a taxpayer who was required to add back insurance premiums in the amount equal to the amount of any reimbursement received from the insurance company for any loss covered by a policy for which those premiums were paid, to the extent of the federal income tax deduction that would have been allowable for the loss in computing adjusted gross income if not for the reimbursement and (ii) make various administrative and technical changes. Amends various Acts governing units of local governments to exempt the sale of modifications to a motor vehicle for the purpose of rendering it usable by a disabled person from certain taxes imposed by the units of local government. Makes other changes. Effective immediately.

LRB095 18331 BDD 44415 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by adding Section
6 2505-800 as follows:

7 (20 ILCS 2505/2505-800 new)

8 Sec. 2505-800. Credit memorandum. Notwithstanding the
9 provisions of any other Act to the contrary, if the Department,
10 after review of its records and without the submission by a
11 taxpayer of any additional documentation, returns, or
12 schedules, determines that an overpayment has occurred on an
13 original return filed under the Electricity Excise Tax Law, the
14 Telecommunications Excise Tax Act, the Simplified Municipal
15 Telecommunications Tax Act, the Telecommunications
16 Infrastructure Maintenance Fee Act, the Gas Revenue Tax Act,
17 the Gas Use Tax Law, the Hotel Operators' Occupation Tax Act,
18 the Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
19 Products Tax Act of 1995, the Bingo License and Tax Act, the
20 Charitable Games Act, the Illinois Pull Tabs and Jar Games Act,
21 and the Liquor Control Act of 1934, it shall issue a credit
22 memorandum to the taxpayer without the necessity of the
23 taxpayer filing a claim for credit. The time period during

1 which the Department may issue a credit memorandum under this
2 Section shall be limited to the period of 3 years from the date
3 of the overpayment by the taxpayer. Issuance of a credit
4 memorandum under this Section is subject to the offset
5 provisions of Section 2505-275 of this Act.

6 (30 ILCS 210/8 rep.)

7 Section 10. The Illinois State Collection Act of 1986 is
8 amended by repealing Section 8.

9 Section 15. The Illinois Procurement Code is amended by
10 changing Sections 50-11 and 50-60 as follows:

11 (30 ILCS 500/50-11)

12 Sec. 50-11. Debt delinquency.

13 (a) No person shall submit a bid for or enter into a
14 contract with a State agency under this Code if that person
15 knows or should know that he or she or any affiliate is
16 delinquent in the payment of any debt to the State, unless the
17 person or affiliate has entered into a deferred payment plan to
18 pay off the debt. For purposes of this Section, the phrase
19 "delinquent in the payment of any debt" shall be determined by
20 the Debt Collection Board or, after the effective date of this
21 amendatory Act of the 95th General Assembly, the Department of
22 Revenue. For purposes of this Section, the term "affiliate"
23 means any entity that (1) directly, indirectly, or

1 constructively controls another entity, (2) is directly,
2 indirectly, or constructively controlled by another entity, or
3 (3) is subject to the control of a common entity. For purposes
4 of this subsection (a), a person controls an entity if the
5 person owns, directly or individually, more than 10% of the
6 voting securities of that entity. As used in this subsection
7 (a), the term "voting security" means a security that (1)
8 confers upon the holder the right to vote for the election of
9 members of the board of directors or similar governing body of
10 the business or (2) is convertible into, or entitles the holder
11 to receive upon its exercise, a security that confers such a
12 right to vote. A general partnership interest is a voting
13 security.

14 (b) Every bid submitted to and contract executed by the
15 State shall contain a certification by the bidder or contractor
16 that the contractor and its affiliate is not barred from being
17 awarded a contract under this Section and that the contractor
18 acknowledges that the contracting State agency may declare the
19 contract void if the certification completed pursuant to this
20 subsection (b) is false.

21 (Source: P.A. 92-404, eff. 7-1-02; 93-25, eff. 6-20-03.)

22 (30 ILCS 500/50-60)

23 Sec. 50-60. Voidable contracts.

24 (a) If any contract is entered into or purchase or
25 expenditure of funds is made in violation of this Code or any

1 other law, the contract may be declared void by the chief
2 procurement officer or may be ratified and affirmed, provided
3 the chief procurement officer determines that ratification is
4 in the best interests of the State. If the contract is ratified
5 and affirmed, it shall be without prejudice to the State's
6 rights to any appropriate damages.

7 (b) If, during the term of a contract, the contracting
8 agency determines that the contractor is delinquent in the
9 payment of debt as set forth in Section 50-11 of this Code, the
10 State agency may declare the contract void if it determines
11 that voiding the contract is in the best interests of the
12 State. The Debt Collection Board or, after the effective date
13 of this amendatory Act of the 95th General Assembly, the
14 Department of Revenue shall adopt rules for the implementation
15 of this subsection (b).

16 (c) If, during the term of a contract, the contracting
17 agency determines that the contractor is in violation of
18 Section 50-10.5 of this Code, the contracting agency shall
19 declare the contract void.

20 (Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

21 Section 20. The Illinois Income Tax Act is amended by
22 changing Sections 201, 203, 204, 205, 214, 304, 502, 506, 601,
23 701, 702, 703, 704A, 804, 909, 911, 917, 1002, and 1101 as
24 follows:

1 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

2 Sec. 201. Tax Imposed.

3 (a) In general. A tax measured by net income is hereby
4 imposed on every individual, corporation, trust and estate for
5 each taxable year ending after July 31, 1969 on the privilege
6 of earning or receiving income in or as a resident of this
7 State. Such tax shall be in addition to all other occupation or
8 privilege taxes imposed by this State or by any municipal
9 corporation or political subdivision thereof.

10 (b) Rates. The tax imposed by subsection (a) of this
11 Section shall be determined as follows, except as adjusted by
12 subsection (d-1):

13 (1) In the case of an individual, trust or estate, for
14 taxable years ending prior to July 1, 1989, an amount equal
15 to 2 1/2% of the taxpayer's net income for the taxable
16 year.

17 (2) In the case of an individual, trust or estate, for
18 taxable years beginning prior to July 1, 1989 and ending
19 after June 30, 1989, an amount equal to the sum of (i) 2
20 1/2% of the taxpayer's net income for the period prior to
21 July 1, 1989, as calculated under Section 202.3, and (ii)
22 3% of the taxpayer's net income for the period after June
23 30, 1989, as calculated under Section 202.3.

24 (3) In the case of an individual, trust or estate, for
25 taxable years beginning after June 30, 1989, an amount
26 equal to 3% of the taxpayer's net income for the taxable

1 year.

2 (4) (Blank).

3 (5) (Blank).

4 (6) In the case of a corporation, for taxable years
5 ending prior to July 1, 1989, an amount equal to 4% of the
6 taxpayer's net income for the taxable year.

7 (7) In the case of a corporation, for taxable years
8 beginning prior to July 1, 1989 and ending after June 30,
9 1989, an amount equal to the sum of (i) 4% of the
10 taxpayer's net income for the period prior to July 1, 1989,
11 as calculated under Section 202.3, and (ii) 4.8% of the
12 taxpayer's net income for the period after June 30, 1989,
13 as calculated under Section 202.3.

14 (8) In the case of a corporation, for taxable years
15 beginning after June 30, 1989, an amount equal to 4.8% of
16 the taxpayer's net income for the taxable year.

17 (c) Personal Property Tax Replacement Income Tax.
18 Beginning on July 1, 1979 and thereafter, in addition to such
19 income tax, there is also hereby imposed the Personal Property
20 Tax Replacement Income Tax measured by net income on every
21 corporation (including Subchapter S corporations), partnership
22 and trust, for each taxable year ending after June 30, 1979.
23 Such taxes are imposed on the privilege of earning or receiving
24 income in or as a resident of this State. The Personal Property
25 Tax Replacement Income Tax shall be in addition to the income
26 tax imposed by subsections (a) and (b) of this Section and in

1 addition to all other occupation or privilege taxes imposed by
2 this State or by any municipal corporation or political
3 subdivision thereof.

4 (d) Additional Personal Property Tax Replacement Income
5 Tax Rates. The personal property tax replacement income tax
6 imposed by this subsection and subsection (c) of this Section
7 in the case of a corporation, other than a Subchapter S
8 corporation and except as adjusted by subsection (d-1), shall
9 be an additional amount equal to 2.85% of such taxpayer's net
10 income for the taxable year, except that beginning on January
11 1, 1981, and thereafter, the rate of 2.85% specified in this
12 subsection shall be reduced to 2.5%, and in the case of a
13 partnership, trust or a Subchapter S corporation shall be an
14 additional amount equal to 1.5% of such taxpayer's net income
15 for the taxable year.

16 (d-1) Rate reduction for certain foreign insurers. In the
17 case of a foreign insurer, as defined by Section 35A-5 of the
18 Illinois Insurance Code, whose state or country of domicile
19 imposes on insurers domiciled in Illinois a retaliatory tax
20 (excluding any insurer whose premiums from reinsurance assumed
21 are 50% or more of its total insurance premiums as determined
22 under paragraph (2) of subsection (b) of Section 304, except
23 that for purposes of this determination premiums from
24 reinsurance do not include premiums from inter-affiliate
25 reinsurance arrangements), beginning with taxable years ending
26 on or after December 31, 1999, the sum of the rates of tax

1 imposed by subsections (b) and (d) shall be reduced (but not
2 increased) to the rate at which the total amount of tax imposed
3 under this Act, net of all credits allowed under this Act,
4 shall equal (i) the total amount of tax that would be imposed
5 on the foreign insurer's net income allocable to Illinois for
6 the taxable year by such foreign insurer's state or country of
7 domicile if that net income were subject to all income taxes
8 and taxes measured by net income imposed by such foreign
9 insurer's state or country of domicile, net of all credits
10 allowed or (ii) a rate of zero if no such tax is imposed on such
11 income by the foreign insurer's state of domicile. For the
12 purposes of this subsection (d-1), an inter-affiliate includes
13 a mutual insurer under common management.

14 (1) For the purposes of subsection (d-1), in no event
15 shall the sum of the rates of tax imposed by subsections
16 (b) and (d) be reduced below the rate at which the sum of:

17 (A) the total amount of tax imposed on such foreign
18 insurer under this Act for a taxable year, net of all
19 credits allowed under this Act, plus

20 (B) the privilege tax imposed by Section 409 of the
21 Illinois Insurance Code, the fire insurance company
22 tax imposed by Section 12 of the Fire Investigation
23 Act, and the fire department taxes imposed under
24 Section 11-10-1 of the Illinois Municipal Code,
25 equals 1.25% for taxable years ending prior to December 31,
26 2003, or 1.75% for taxable years ending on or after

1 December 31, 2003, of the net taxable premiums written for
2 the taxable year, as described by subsection (1) of Section
3 409 of the Illinois Insurance Code. This paragraph will in
4 no event increase the rates imposed under subsections (b)
5 and (d).

6 (2) Any reduction in the rates of tax imposed by this
7 subsection shall be applied first against the rates imposed
8 by subsection (b) and only after the tax imposed by
9 subsection (a) net of all credits allowed under this
10 Section other than the credit allowed under subsection (i)
11 has been reduced to zero, against the rates imposed by
12 subsection (d).

13 This subsection (d-1) is exempt from the provisions of
14 Section 250.

15 (e) Investment credit. A taxpayer shall be allowed a credit
16 against the Personal Property Tax Replacement Income Tax for
17 investment in qualified property.

18 (1) A taxpayer shall be allowed a credit equal to .5%
19 of the basis of qualified property placed in service during
20 the taxable year, provided such property is placed in
21 service on or after July 1, 1984. There shall be allowed an
22 additional credit equal to .5% of the basis of qualified
23 property placed in service during the taxable year,
24 provided such property is placed in service on or after
25 July 1, 1986, and the taxpayer's base employment within
26 Illinois has increased by 1% or more over the preceding

1 year as determined by the taxpayer's employment records
2 filed with the Illinois Department of Employment Security.
3 Taxpayers who are new to Illinois shall be deemed to have
4 met the 1% growth in base employment for the first year in
5 which they file employment records with the Illinois
6 Department of Employment Security. The provisions added to
7 this Section by Public Act 85-1200 (and restored by Public
8 Act 87-895) shall be construed as declaratory of existing
9 law and not as a new enactment. If, in any year, the
10 increase in base employment within Illinois over the
11 preceding year is less than 1%, the additional credit shall
12 be limited to that percentage times a fraction, the
13 numerator of which is .5% and the denominator of which is
14 1%, but shall not exceed .5%. The investment credit shall
15 not be allowed to the extent that it would reduce a
16 taxpayer's liability in any tax year below zero, nor may
17 any credit for qualified property be allowed for any year
18 other than the year in which the property was placed in
19 service in Illinois. For tax years ending on or after
20 December 31, 1987, and on or before December 31, 1988, the
21 credit shall be allowed for the tax year in which the
22 property is placed in service, or, if the amount of the
23 credit exceeds the tax liability for that year, whether it
24 exceeds the original liability or the liability as later
25 amended, such excess may be carried forward and applied to
26 the tax liability of the 5 taxable years following the

1 excess credit years if the taxpayer (i) makes investments
2 which cause the creation of a minimum of 2,000 full-time
3 equivalent jobs in Illinois, (ii) is located in an
4 enterprise zone established pursuant to the Illinois
5 Enterprise Zone Act and (iii) is certified by the
6 Department of Commerce and Community Affairs (now
7 Department of Commerce and Economic Opportunity) as
8 complying with the requirements specified in clause (i) and
9 (ii) by July 1, 1986. The Department of Commerce and
10 Community Affairs (now Department of Commerce and Economic
11 Opportunity) shall notify the Department of Revenue of all
12 such certifications immediately. For tax years ending
13 after December 31, 1988, the credit shall be allowed for
14 the tax year in which the property is placed in service,
15 or, if the amount of the credit exceeds the tax liability
16 for that year, whether it exceeds the original liability or
17 the liability as later amended, such excess may be carried
18 forward and applied to the tax liability of the 5 taxable
19 years following the excess credit years. The credit shall
20 be applied to the earliest year for which there is a
21 liability. If there is credit from more than one tax year
22 that is available to offset a liability, earlier credit
23 shall be applied first.

24 (2) The term "qualified property" means property
25 which:

26 (A) is tangible, whether new or used, including

1 buildings and structural components of buildings and
2 signs that are real property, but not including land or
3 improvements to real property that are not a structural
4 component of a building such as landscaping, sewer
5 lines, local access roads, fencing, parking lots, and
6 other appurtenances;

7 (B) is depreciable pursuant to Section 167 of the
8 Internal Revenue Code, except that "3-year property"
9 as defined in Section 168(c)(2)(A) of that Code is not
10 eligible for the credit provided by this subsection
11 (e);

12 (C) is acquired by purchase as defined in Section
13 179(d) of the Internal Revenue Code;

14 (D) is used in Illinois by a taxpayer who is
15 primarily engaged in manufacturing, or in mining coal
16 or fluorite, or in retailing, or was placed in service
17 on or after July 1, 2006 in a River Edge Redevelopment
18 Zone established pursuant to the River Edge
19 Redevelopment Zone Act; and

20 (E) has not previously been used in Illinois in
21 such a manner and by such a person as would qualify for
22 the credit provided by this subsection (e) or
23 subsection (f).

24 (3) For purposes of this subsection (e),
25 "manufacturing" means the material staging and production
26 of tangible personal property by procedures commonly

1 regarded as manufacturing, processing, fabrication, or
2 assembling which changes some existing material into new
3 shapes, new qualities, or new combinations. For purposes of
4 this subsection (e) the term "mining" shall have the same
5 meaning as the term "mining" in Section 613(c) of the
6 Internal Revenue Code. For purposes of this subsection (e),
7 the term "retailing" means the sale of tangible personal
8 property or services rendered in conjunction with the sale
9 of tangible consumer goods or commodities.

10 (4) The basis of qualified property shall be the basis
11 used to compute the depreciation deduction for federal
12 income tax purposes.

13 (5) If the basis of the property for federal income tax
14 depreciation purposes is increased after it has been placed
15 in service in Illinois by the taxpayer, the amount of such
16 increase shall be deemed property placed in service on the
17 date of such increase in basis.

18 (6) The term "placed in service" shall have the same
19 meaning as under Section 46 of the Internal Revenue Code.

20 (7) If during any taxable year, any property ceases to
21 be qualified property in the hands of the taxpayer within
22 48 months after being placed in service, or the situs of
23 any qualified property is moved outside Illinois within 48
24 months after being placed in service, the Personal Property
25 Tax Replacement Income Tax for such taxable year shall be
26 increased. Such increase shall be determined by (i)

1 recomputing the investment credit which would have been
2 allowed for the year in which credit for such property was
3 originally allowed by eliminating such property from such
4 computation and, (ii) subtracting such recomputed credit
5 from the amount of credit previously allowed. For the
6 purposes of this paragraph (7), a reduction of the basis of
7 qualified property resulting from a redetermination of the
8 purchase price shall be deemed a disposition of qualified
9 property to the extent of such reduction.

10 (8) Unless the investment credit is extended by law,
11 the basis of qualified property shall not include costs
12 incurred after December 31, 2008, except for costs incurred
13 pursuant to a binding contract entered into on or before
14 December 31, 2008.

15 (9) Each taxable year ending before December 31, 2000,
16 a partnership may elect to pass through to its partners the
17 credits to which the partnership is entitled under this
18 subsection (e) for the taxable year. A partner may use the
19 credit allocated to him or her under this paragraph only
20 against the tax imposed in subsections (c) and (d) of this
21 Section. If the partnership makes that election, those
22 credits shall be allocated among the partners in the
23 partnership in accordance with the rules set forth in
24 Section 704(b) of the Internal Revenue Code, and the rules
25 promulgated under that Section, and the allocated amount of
26 the credits shall be allowed to the partners for that

1 taxable year. The partnership shall make this election on
2 its Personal Property Tax Replacement Income Tax return for
3 that taxable year. The election to pass through the credits
4 shall be irrevocable.

5 For taxable years ending on or after December 31, 2000,
6 a partner that qualifies its partnership for a subtraction
7 under subparagraph (I) of paragraph (2) of subsection (d)
8 of Section 203 or a shareholder that qualifies a Subchapter
9 S corporation for a subtraction under subparagraph (S) of
10 paragraph (2) of subsection (b) of Section 203 shall be
11 allowed a credit under this subsection (e) equal to its
12 share of the credit earned under this subsection (e) during
13 the taxable year by the partnership or Subchapter S
14 corporation, determined in accordance with the
15 determination of income and distributive share of income
16 under Sections 702 and 704 and Subchapter S of the Internal
17 Revenue Code. This paragraph is exempt from the provisions
18 of Section 250.

19 (f) Investment credit; Enterprise Zone; River Edge
20 Redevelopment Zone.

21 (1) A taxpayer shall be allowed a credit against the
22 tax imposed by subsections (a) and (b) of this Section for
23 investment in qualified property which is placed in service
24 in an Enterprise Zone created pursuant to the Illinois
25 Enterprise Zone Act or, for property placed in service on
26 or after July 1, 2006, a River Edge Redevelopment Zone

1 established pursuant to the River Edge Redevelopment Zone
2 Act. For partners, shareholders of Subchapter S
3 corporations, and owners of limited liability companies,
4 if the liability company is treated as a partnership for
5 purposes of federal and State income taxation, there shall
6 be allowed a credit under this subsection (f) to be
7 determined in accordance with the determination of income
8 and distributive share of income under Sections 702 and 704
9 and Subchapter S of the Internal Revenue Code. The credit
10 shall be .5% of the basis for such property. The credit
11 shall be available only in the taxable year in which the
12 property is placed in service in the Enterprise Zone or
13 River Edge Redevelopment Zone and shall not be allowed to
14 the extent that it would reduce a taxpayer's liability for
15 the tax imposed by subsections (a) and (b) of this Section
16 to below zero. For tax years ending on or after December
17 31, 1985, the credit shall be allowed for the tax year in
18 which the property is placed in service, or, if the amount
19 of the credit exceeds the tax liability for that year,
20 whether it exceeds the original liability or the liability
21 as later amended, such excess may be carried forward and
22 applied to the tax liability of the 5 taxable years
23 following the excess credit year. The credit shall be
24 applied to the earliest year for which there is a
25 liability. If there is credit from more than one tax year
26 that is available to offset a liability, the credit

1 accruing first in time shall be applied first.

2 (2) The term qualified property means property which:

3 (A) is tangible, whether new or used, including
4 buildings and structural components of buildings;

5 (B) is depreciable pursuant to Section 167 of the
6 Internal Revenue Code, except that "3-year property"
7 as defined in Section 168(c)(2)(A) of that Code is not
8 eligible for the credit provided by this subsection
9 (f);

10 (C) is acquired by purchase as defined in Section
11 179(d) of the Internal Revenue Code;

12 (D) is used in the Enterprise Zone or River Edge
13 Redevelopment Zone by the taxpayer; and

14 (E) has not been previously used in Illinois in
15 such a manner and by such a person as would qualify for
16 the credit provided by this subsection (f) or
17 subsection (e).

18 (3) The basis of qualified property shall be the basis
19 used to compute the depreciation deduction for federal
20 income tax purposes.

21 (4) If the basis of the property for federal income tax
22 depreciation purposes is increased after it has been placed
23 in service in the Enterprise Zone or River Edge
24 Redevelopment Zone by the taxpayer, the amount of such
25 increase shall be deemed property placed in service on the
26 date of such increase in basis.

1 (5) The term "placed in service" shall have the same
2 meaning as under Section 46 of the Internal Revenue Code.

3 (6) If during any taxable year, any property ceases to
4 be qualified property in the hands of the taxpayer within
5 48 months after being placed in service, or the situs of
6 any qualified property is moved outside the Enterprise Zone
7 or River Edge Redevelopment Zone within 48 months after
8 being placed in service, the tax imposed under subsections
9 (a) and (b) of this Section for such taxable year shall be
10 increased. Such increase shall be determined by (i)
11 recomputing the investment credit which would have been
12 allowed for the year in which credit for such property was
13 originally allowed by eliminating such property from such
14 computation, and (ii) subtracting such recomputed credit
15 from the amount of credit previously allowed. For the
16 purposes of this paragraph (6), a reduction of the basis of
17 qualified property resulting from a redetermination of the
18 purchase price shall be deemed a disposition of qualified
19 property to the extent of such reduction.

20 (7) There shall be allowed an additional credit equal
21 to 0.5% of the basis of qualified property placed in
22 service during the taxable year in a River Edge
23 Redevelopment Zone, provided such property is placed in
24 service on or after July 1, 2006, and the taxpayer's base
25 employment within Illinois has increased by 1% or more over
26 the preceding year as determined by the taxpayer's

1 employment records filed with the Illinois Department of
2 Employment Security. Taxpayers who are new to Illinois
3 shall be deemed to have met the 1% growth in base
4 employment for the first year in which they file employment
5 records with the Illinois Department of Employment
6 Security. If, in any year, the increase in base employment
7 within Illinois over the preceding year is less than 1%,
8 the additional credit shall be limited to that percentage
9 times a fraction, the numerator of which is 0.5% and the
10 denominator of which is 1%, but shall not exceed 0.5%.

11 (g) Jobs Tax Credit; Enterprise Zone, River Edge
12 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

13 (1) A taxpayer conducting a trade or business in an
14 enterprise zone or a High Impact Business designated by the
15 Department of Commerce and Economic Opportunity or for
16 taxable years ending on or after December 31, 2006, in a
17 River Edge Redevelopment Zone conducting a trade or
18 business in a federally designated Foreign Trade Zone or
19 Sub-Zone shall be allowed a credit against the tax imposed
20 by subsections (a) and (b) of this Section in the amount of
21 \$500 per eligible employee hired to work in the zone during
22 the taxable year.

23 (2) To qualify for the credit:

24 (A) the taxpayer must hire 5 or more eligible
25 employees to work in an enterprise zone, River Edge
26 Redevelopment Zone, or federally designated Foreign

1 Trade Zone or Sub-Zone during the taxable year;

2 (B) the taxpayer's total employment within the
3 enterprise zone, River Edge Redevelopment Zone, or
4 federally designated Foreign Trade Zone or Sub-Zone
5 must increase by 5 or more full-time employees beyond
6 the total employed in that zone at the end of the
7 previous tax year for which a jobs tax credit under
8 this Section was taken, or beyond the total employed by
9 the taxpayer as of December 31, 1985, whichever is
10 later; and

11 (C) the eligible employees must be employed 180
12 consecutive days in order to be deemed hired for
13 purposes of this subsection.

14 (3) An "eligible employee" means an employee who is:

15 (A) Certified by the Department of Commerce and
16 Economic Opportunity as "eligible for services"
17 pursuant to regulations promulgated in accordance with
18 Title II of the Job Training Partnership Act, Training
19 Services for the Disadvantaged or Title III of the Job
20 Training Partnership Act, Employment and Training
21 Assistance for Dislocated Workers Program.

22 (B) Hired after the enterprise zone, River Edge
23 Redevelopment Zone, or federally designated Foreign
24 Trade Zone or Sub-Zone was designated or the trade or
25 business was located in that zone, whichever is later.

26 (C) Employed in the enterprise zone, River Edge

1 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
2 An employee is employed in an enterprise zone, River
3 Edge Redevelopment Zone, or federally designated
4 Foreign Trade Zone or Sub-Zone if his services are
5 rendered there or it is the base of operations for the
6 services performed.

7 (D) A full-time employee working 30 or more hours
8 per week.

9 (4) For tax years ending on or after December 31, 1985
10 and prior to December 31, 1988, the credit shall be allowed
11 for the tax year in which the eligible employees are hired.
12 For tax years ending on or after December 31, 1988, the
13 credit shall be allowed for the tax year immediately
14 following the tax year in which the eligible employees are
15 hired. If the amount of the credit exceeds the tax
16 liability for that year, whether it exceeds the original
17 liability or the liability as later amended, such excess
18 may be carried forward and applied to the tax liability of
19 the 5 taxable years following the excess credit year. The
20 credit shall be applied to the earliest year for which
21 there is a liability. If there is credit from more than one
22 tax year that is available to offset a liability, earlier
23 credit shall be applied first.

24 (5) The Department of Revenue shall promulgate such
25 rules and regulations as may be deemed necessary to carry
26 out the purposes of this subsection (g).

1 (6) The credit shall be available for eligible
2 employees hired on or after January 1, 1986.

3 (h) Investment credit; High Impact Business.

4 (1) Subject to subsections (b) and (b-5) of Section 5.5
5 of the Illinois Enterprise Zone Act, a taxpayer shall be
6 allowed a credit against the tax imposed by subsections (a)
7 and (b) of this Section for investment in qualified
8 property which is placed in service by a Department of
9 Commerce and Economic Opportunity designated High Impact
10 Business. The credit shall be .5% of the basis for such
11 property. The credit shall not be available (i) until the
12 minimum investments in qualified property set forth in
13 subdivision (a)(3)(A) of Section 5.5 of the Illinois
14 Enterprise Zone Act have been satisfied or (ii) until the
15 time authorized in subsection (b-5) of the Illinois
16 Enterprise Zone Act for entities designated as High Impact
17 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
18 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
19 Act, and shall not be allowed to the extent that it would
20 reduce a taxpayer's liability for the tax imposed by
21 subsections (a) and (b) of this Section to below zero. The
22 credit applicable to such investments shall be taken in the
23 taxable year in which such investments have been completed.
24 The credit for additional investments beyond the minimum
25 investment by a designated high impact business authorized
26 under subdivision (a)(3)(A) of Section 5.5 of the Illinois

1 Enterprise Zone Act shall be available only in the taxable
2 year in which the property is placed in service and shall
3 not be allowed to the extent that it would reduce a
4 taxpayer's liability for the tax imposed by subsections (a)
5 and (b) of this Section to below zero. For tax years ending
6 on or after December 31, 1987, the credit shall be allowed
7 for the tax year in which the property is placed in
8 service, or, if the amount of the credit exceeds the tax
9 liability for that year, whether it exceeds the original
10 liability or the liability as later amended, such excess
11 may be carried forward and applied to the tax liability of
12 the 5 taxable years following the excess credit year. The
13 credit shall be applied to the earliest year for which
14 there is a liability. If there is credit from more than one
15 tax year that is available to offset a liability, the
16 credit accruing first in time shall be applied first.

17 Changes made in this subdivision (h) (1) by Public Act
18 88-670 restore changes made by Public Act 85-1182 and
19 reflect existing law.

20 (2) The term qualified property means property which:

21 (A) is tangible, whether new or used, including
22 buildings and structural components of buildings;

23 (B) is depreciable pursuant to Section 167 of the
24 Internal Revenue Code, except that "3-year property"
25 as defined in Section 168(c) (2) (A) of that Code is not
26 eligible for the credit provided by this subsection

1 (h);

2 (C) is acquired by purchase as defined in Section
3 179(d) of the Internal Revenue Code; and

4 (D) is not eligible for the Enterprise Zone
5 Investment Credit provided by subsection (f) of this
6 Section.

7 (3) The basis of qualified property shall be the basis
8 used to compute the depreciation deduction for federal
9 income tax purposes.

10 (4) If the basis of the property for federal income tax
11 depreciation purposes is increased after it has been placed
12 in service in a federally designated Foreign Trade Zone or
13 Sub-Zone located in Illinois by the taxpayer, the amount of
14 such increase shall be deemed property placed in service on
15 the date of such increase in basis.

16 (5) The term "placed in service" shall have the same
17 meaning as under Section 46 of the Internal Revenue Code.

18 (6) If during any taxable year ending on or before
19 December 31, 1996, any property ceases to be qualified
20 property in the hands of the taxpayer within 48 months
21 after being placed in service, or the situs of any
22 qualified property is moved outside Illinois within 48
23 months after being placed in service, the tax imposed under
24 subsections (a) and (b) of this Section for such taxable
25 year shall be increased. Such increase shall be determined
26 by (i) recomputing the investment credit which would have

1 been allowed for the year in which credit for such property
2 was originally allowed by eliminating such property from
3 such computation, and (ii) subtracting such recomputed
4 credit from the amount of credit previously allowed. For
5 the purposes of this paragraph (6), a reduction of the
6 basis of qualified property resulting from a
7 redetermination of the purchase price shall be deemed a
8 disposition of qualified property to the extent of such
9 reduction.

10 (7) Beginning with tax years ending after December 31,
11 1996, if a taxpayer qualifies for the credit under this
12 subsection (h) and thereby is granted a tax abatement and
13 the taxpayer relocates its entire facility in violation of
14 the explicit terms and length of the contract under Section
15 18-183 of the Property Tax Code, the tax imposed under
16 subsections (a) and (b) of this Section shall be increased
17 for the taxable year in which the taxpayer relocated its
18 facility by an amount equal to the amount of credit
19 received by the taxpayer under this subsection (h).

20 (i) Credit for Personal Property Tax Replacement Income
21 Tax. For tax years ending prior to December 31, 2003, a credit
22 shall be allowed against the tax imposed by subsections (a) and
23 (b) of this Section for the tax imposed by subsections (c) and
24 (d) of this Section. This credit shall be computed by
25 multiplying the tax imposed by subsections (c) and (d) of this
26 Section by a fraction, the numerator of which is base income

1 allocable to Illinois and the denominator of which is Illinois
2 base income, and further multiplying the product by the tax
3 rate imposed by subsections (a) and (b) of this Section.

4 Any credit earned on or after December 31, 1986 under this
5 subsection which is unused in the year the credit is computed
6 because it exceeds the tax liability imposed by subsections (a)
7 and (b) for that year (whether it exceeds the original
8 liability or the liability as later amended) may be carried
9 forward and applied to the tax liability imposed by subsections
10 (a) and (b) of the 5 taxable years following the excess credit
11 year, provided that no credit may be carried forward to any
12 year ending on or after December 31, 2003. This credit shall be
13 applied first to the earliest year for which there is a
14 liability. If there is a credit under this subsection from more
15 than one tax year that is available to offset a liability the
16 earliest credit arising under this subsection shall be applied
17 first.

18 If, during any taxable year ending on or after December 31,
19 1986, the tax imposed by subsections (c) and (d) of this
20 Section for which a taxpayer has claimed a credit under this
21 subsection (i) is reduced, the amount of credit for such tax
22 shall also be reduced. Such reduction shall be determined by
23 recomputing the credit to take into account the reduced tax
24 imposed by subsections (c) and (d). If any portion of the
25 reduced amount of credit has been carried to a different
26 taxable year, an amended return shall be filed for such taxable

1 year to reduce the amount of credit claimed.

2 (j) Training expense credit. Beginning with tax years
3 ending on or after December 31, 1986 and prior to December 31,
4 2003, a taxpayer shall be allowed a credit against the tax
5 imposed by subsections (a) and (b) under this Section for all
6 amounts paid or accrued, on behalf of all persons employed by
7 the taxpayer in Illinois or Illinois residents employed outside
8 of Illinois by a taxpayer, for educational or vocational
9 training in semi-technical or technical fields or semi-skilled
10 or skilled fields, which were deducted from gross income in the
11 computation of taxable income. The credit against the tax
12 imposed by subsections (a) and (b) shall be 1.6% of such
13 training expenses. For partners, shareholders of subchapter S
14 corporations, and owners of limited liability companies, if the
15 liability company is treated as a partnership for purposes of
16 federal and State income taxation, there shall be allowed a
17 credit under this subsection (j) to be determined in accordance
18 with the determination of income and distributive share of
19 income under Sections 702 and 704 and subchapter S of the
20 Internal Revenue Code.

21 Any credit allowed under this subsection which is unused in
22 the year the credit is earned may be carried forward to each of
23 the 5 taxable years following the year for which the credit is
24 first computed until it is used. This credit shall be applied
25 first to the earliest year for which there is a liability. If
26 there is a credit under this subsection from more than one tax

1 year that is available to offset a liability the earliest
2 credit arising under this subsection shall be applied first. No
3 carryforward credit may be claimed in any tax year ending on or
4 after December 31, 2003.

5 (k) Research and development credit.

6 For tax years ending after July 1, 1990 and prior to
7 December 31, 2003, and beginning again for tax years ending on
8 or after December 31, 2004, a taxpayer shall be allowed a
9 credit against the tax imposed by subsections (a) and (b) of
10 this Section for increasing research activities in this State.
11 The credit allowed against the tax imposed by subsections (a)
12 and (b) shall be equal to 6 1/2% of the qualifying expenditures
13 for increasing research activities in this State. For partners,
14 shareholders of subchapter S corporations, and owners of
15 limited liability companies, if the liability company is
16 treated as a partnership for purposes of federal and State
17 income taxation, there shall be allowed a credit under this
18 subsection to be determined in accordance with the
19 determination of income and distributive share of income under
20 Sections 702 and 704 and subchapter S of the Internal Revenue
21 Code.

22 For purposes of this subsection, "qualifying expenditures"
23 means the qualifying expenditures as defined for the federal
24 credit for increasing research activities which would be
25 allowable under Section 41 of the Internal Revenue Code and
26 which are conducted in this State, "qualifying expenditures for

1 increasing research activities in this State" means the excess
2 of qualifying expenditures for the taxable year in which
3 incurred over qualifying expenditures for the base period,
4 "qualifying expenditures for the base period" means the average
5 of the qualifying expenditures for each year in the base
6 period, and "base period" means the 3 taxable years immediately
7 preceding the taxable year for which the determination is being
8 made.

9 Any credit in excess of the tax liability for the taxable
10 year may be carried forward. A taxpayer may elect to have the
11 unused credit shown on its final completed return carried over
12 as a credit against the tax liability for the following 5
13 taxable years or until it has been fully used, whichever occurs
14 first; provided that no credit earned in a tax year ending
15 prior to December 31, 2003 may be carried forward to any year
16 ending on or after December 31, 2003.

17 If an unused credit is carried forward to a given year from
18 2 or more earlier years, that credit arising in the earliest
19 year will be applied first against the tax liability for the
20 given year. If a tax liability for the given year still
21 remains, the credit from the next earliest year will then be
22 applied, and so on, until all credits have been used or no tax
23 liability for the given year remains. Any remaining unused
24 credit or credits then will be carried forward to the next
25 following year in which a tax liability is incurred, except
26 that no credit can be carried forward to a year which is more

1 than 5 years after the year in which the expense for which the
2 credit is given was incurred.

3 No inference shall be drawn from this amendatory Act of the
4 91st General Assembly in construing this Section for taxable
5 years beginning before January 1, 1999.

6 (1) Environmental Remediation Tax Credit.

7 (i) For tax years ending after December 31, 1997 and on
8 or before December 31, 2001, a taxpayer shall be allowed a
9 credit against the tax imposed by subsections (a) and (b)
10 of this Section for certain amounts paid for unreimbursed
11 eligible remediation costs, as specified in this
12 subsection. For purposes of this Section, "unreimbursed
13 eligible remediation costs" means costs approved by the
14 Illinois Environmental Protection Agency ("Agency") under
15 Section 58.14 of the Environmental Protection Act that were
16 paid in performing environmental remediation at a site for
17 which a No Further Remediation Letter was issued by the
18 Agency and recorded under Section 58.10 of the
19 Environmental Protection Act. The credit must be claimed
20 for the taxable year in which Agency approval of the
21 eligible remediation costs is granted. The credit is not
22 available to any taxpayer if the taxpayer or any related
23 party caused or contributed to, in any material respect, a
24 release of regulated substances on, in, or under the site
25 that was identified and addressed by the remedial action
26 pursuant to the Site Remediation Program of the

1 Environmental Protection Act. After the Pollution Control
2 Board rules are adopted pursuant to the Illinois
3 Administrative Procedure Act for the administration and
4 enforcement of Section 58.9 of the Environmental
5 Protection Act, determinations as to credit availability
6 for purposes of this Section shall be made consistent with
7 those rules. For purposes of this Section, "taxpayer"
8 includes a person whose tax attributes the taxpayer has
9 succeeded to under Section 381 of the Internal Revenue Code
10 and "related party" includes the persons disallowed a
11 deduction for losses by paragraphs (b), (c), and (f)(1) of
12 Section 267 of the Internal Revenue Code by virtue of being
13 a related taxpayer, as well as any of its partners. The
14 credit allowed against the tax imposed by subsections (a)
15 and (b) shall be equal to 25% of the unreimbursed eligible
16 remediation costs in excess of \$100,000 per site, except
17 that the \$100,000 threshold shall not apply to any site
18 contained in an enterprise zone as determined by the
19 Department of Commerce and Community Affairs (now
20 Department of Commerce and Economic Opportunity). The
21 total credit allowed shall not exceed \$40,000 per year with
22 a maximum total of \$150,000 per site. For partners and
23 shareholders of subchapter S corporations, there shall be
24 allowed a credit under this subsection to be determined in
25 accordance with the determination of income and
26 distributive share of income under Sections 702 and 704 and

1 subchapter S of the Internal Revenue Code.

2 (ii) A credit allowed under this subsection that is
3 unused in the year the credit is earned may be carried
4 forward to each of the 5 taxable years following the year
5 for which the credit is first earned until it is used. The
6 term "unused credit" does not include any amounts of
7 unreimbursed eligible remediation costs in excess of the
8 maximum credit per site authorized under paragraph (i).
9 This credit shall be applied first to the earliest year for
10 which there is a liability. If there is a credit under this
11 subsection from more than one tax year that is available to
12 offset a liability, the earliest credit arising under this
13 subsection shall be applied first. A credit allowed under
14 this subsection may be sold to a buyer as part of a sale of
15 all or part of the remediation site for which the credit
16 was granted. The purchaser of a remediation site and the
17 tax credit shall succeed to the unused credit and remaining
18 carry-forward period of the seller. To perfect the
19 transfer, the assignor shall record the transfer in the
20 chain of title for the site and provide written notice to
21 the Director of the Illinois Department of Revenue of the
22 assignor's intent to sell the remediation site and the
23 amount of the tax credit to be transferred as a portion of
24 the sale. In no event may a credit be transferred to any
25 taxpayer if the taxpayer or a related party would not be
26 eligible under the provisions of subsection (i).

1 (iii) For purposes of this Section, the term "site"
2 shall have the same meaning as under Section 58.2 of the
3 Environmental Protection Act.

4 (m) Education expense credit. Beginning with tax years
5 ending after December 31, 1999, a taxpayer who is the custodian
6 of one or more qualifying pupils shall be allowed a credit
7 against the tax imposed by subsections (a) and (b) of this
8 Section for qualified education expenses incurred on behalf of
9 the qualifying pupils. The credit shall be equal to 25% of
10 qualified education expenses, but in no event may the total
11 credit under this subsection claimed by a family that is the
12 custodian of qualifying pupils exceed \$500. In no event shall a
13 credit under this subsection reduce the taxpayer's liability
14 under this Act to less than zero. This subsection is exempt
15 from the provisions of Section 250 of this Act.

16 For purposes of this subsection:

17 "Qualifying pupils" means individuals who (i) are
18 residents of the State of Illinois, (ii) are under the age of
19 21 at the close of the school year for which a credit is
20 sought, and (iii) during the school year for which a credit is
21 sought were full-time pupils enrolled in a kindergarten through
22 twelfth grade education program at any school, as defined in
23 this subsection.

24 "Qualified education expense" means the amount incurred on
25 behalf of a qualifying pupil in excess of \$250 for tuition,
26 book fees, and lab fees at the school in which the pupil is

1 enrolled during the regular school year.

2 "School" means any public or nonpublic elementary or
3 secondary school in Illinois that is in compliance with Title
4 VI of the Civil Rights Act of 1964 and attendance at which
5 satisfies the requirements of Section 26-1 of the School Code,
6 except that nothing shall be construed to require a child to
7 attend any particular public or nonpublic school to qualify for
8 the credit under this Section.

9 "Custodian" means, with respect to qualifying pupils, an
10 Illinois resident who is a parent, the parents, a legal
11 guardian, or the legal guardians of the qualifying pupils.

12 (n) River Edge Redevelopment Zone site remediation tax
13 credit.

14 (i) For tax years ending on or after December 31, 2006,
15 a taxpayer shall be allowed a credit against the tax
16 imposed by subsections (a) and (b) of this Section for
17 certain amounts paid for unreimbursed eligible remediation
18 costs, as specified in this subsection. For purposes of
19 this Section, "unreimbursed eligible remediation costs"
20 means costs approved by the Illinois Environmental
21 Protection Agency ("Agency") under Section 58.14a of the
22 Environmental Protection Act that were paid in performing
23 environmental remediation at a site within a River Edge
24 Redevelopment Zone for which a No Further Remediation
25 Letter was issued by the Agency and recorded under Section
26 58.10 of the Environmental Protection Act. The credit must

1 be claimed for the taxable year in which Agency approval of
2 the eligible remediation costs is granted. The credit is
3 not available to any taxpayer if the taxpayer or any
4 related party caused or contributed to, in any material
5 respect, a release of regulated substances on, in, or under
6 the site that was identified and addressed by the remedial
7 action pursuant to the Site Remediation Program of the
8 Environmental Protection Act. Determinations as to credit
9 availability for purposes of this Section shall be made
10 consistent with rules adopted by the Pollution Control
11 Board pursuant to the Illinois Administrative Procedure
12 Act for the administration and enforcement of Section 58.9
13 of the Environmental Protection Act. For purposes of this
14 Section, "taxpayer" includes a person whose tax attributes
15 the taxpayer has succeeded to under Section 381 of the
16 Internal Revenue Code and "related party" includes the
17 persons disallowed a deduction for losses by paragraphs
18 (b), (c), and (f)(1) of Section 267 of the Internal Revenue
19 Code by virtue of being a related taxpayer, as well as any
20 of its partners. The credit allowed against the tax imposed
21 by subsections (a) and (b) shall be equal to 25% of the
22 unreimbursed eligible remediation costs in excess of
23 \$100,000 per site.

24 (ii) A credit allowed under this subsection that is
25 unused in the year the credit is earned may be carried
26 forward to each of the 5 taxable years following the year

1 for which the credit is first earned until it is used. This
2 credit shall be applied first to the earliest year for
3 which there is a liability. If there is a credit under this
4 subsection from more than one tax year that is available to
5 offset a liability, the earliest credit arising under this
6 subsection shall be applied first. A credit allowed under
7 this subsection may be sold to a buyer as part of a sale of
8 all or part of the remediation site for which the credit
9 was granted. The purchaser of a remediation site and the
10 tax credit shall succeed to the unused credit and remaining
11 carry-forward period of the seller. To perfect the
12 transfer, the assignor shall record the transfer in the
13 chain of title for the site and provide written notice to
14 the Director of the Illinois Department of Revenue of the
15 assignor's intent to sell the remediation site and the
16 amount of the tax credit to be transferred as a portion of
17 the sale. In no event may a credit be transferred to any
18 taxpayer if the taxpayer or a related party would not be
19 eligible under the provisions of subsection (i).

20 (iii) For purposes of this Section, the term "site"
21 shall have the same meaning as under Section 58.2 of the
22 Environmental Protection Act.

23 (iv) This subsection is exempt from the provisions of
24 Section 250.

25 (Source: P.A. 94-1021, eff. 7-12-06; 95-454, eff. 8-27-07.)

1 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

2 Sec. 203. Base income defined.

3 (a) Individuals.

4 (1) In general. In the case of an individual, base
5 income means an amount equal to the taxpayer's adjusted
6 gross income for the taxable year as modified by paragraph
7 (2).

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

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

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

22 (C) An amount equal to the amount received during
23 the taxable year as a recovery or refund of real
24 property taxes paid with respect to the taxpayer's
25 principal residence under the Revenue Act of 1939 and
26 for which a deduction was previously taken under

1 subparagraph (L) of this paragraph (2) prior to July 1,
2 1991, the retrospective application date of Article 4
3 of Public Act 87-17. In the case of multi-unit or
4 multi-use structures and farm dwellings, the taxes on
5 the taxpayer's principal residence shall be that
6 portion of the total taxes for the entire property
7 which is attributable to such principal residence;

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

12 (D-5) An amount, to the extent not included in
13 adjusted gross income, equal to the amount of money
14 withdrawn by the taxpayer in the taxable year from a
15 medical care savings account and the interest earned on
16 the account in the taxable year of a withdrawal
17 pursuant to subsection (b) of Section 20 of the Medical
18 Care Savings Account Act or subsection (b) of Section
19 20 of the Medical Care Savings Account Act of 2000;

20 (D-10) For taxable years ending after December 31,
21 1997, an amount equal to any eligible remediation costs
22 that the individual deducted in computing adjusted
23 gross income and for which the individual claims a
24 credit under subsection (1) of Section 201;

25 (D-15) For taxable years 2001 and thereafter, an
26 amount equal to the bonus depreciation deduction taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code;

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

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

18 The taxpayer is required to make the addition
19 modification under this subparagraph only once with
20 respect to any one piece of property;

21 (D-17) An amount equal to the amount otherwise
22 allowed as a deduction in computing base income for
23 interest paid, accrued, or incurred, directly or
24 indirectly, (i) for taxable years ending on or after
25 December 31, 2004, to a foreign person who would be a
26 member of the same unitary business group but for the

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

21 This paragraph shall not apply to the following:

22 (i) an item of interest paid, accrued, or
23 incurred, directly or indirectly, to a person who
24 is subject in a foreign country or state, other
25 than a state which requires mandatory unitary
26 reporting, to a tax on or measured by net income

1 with respect to such interest; or

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

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

10 (b) the transaction giving rise to the
11 interest expense between the taxpayer and the
12 person did not have as a principal purpose the
13 avoidance of Illinois income tax, and is paid
14 pursuant to a contract or agreement that
15 reflects an arm's-length interest rate and
16 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 person if
25 the taxpayer establishes by clear and convincing
26 evidence that the adjustments are unreasonable; or

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

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

13 (D-18) An amount equal to the amount of intangible
14 expenses and costs otherwise allowed as a deduction in
15 computing base income, and that were paid, accrued, or
16 incurred, directly or indirectly, (i) for taxable
17 years ending on or after December 31, 2004, to a
18 foreign person who would be a member of the same
19 unitary business group but for the fact that the
20 foreign person's business activity outside the United
21 States is 80% or more of that person's total business
22 activity and (ii) for taxable years ending on or after
23 December 31, 2008, to a person who would be a member of
24 the same unitary business group but for the fact that
25 the person is prohibited under Section 1501(a)(27)
26 from being included in the unitary business group

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

1 costs. For purposes of this subparagraph, "intangible
2 property" includes patents, patent applications, trade
3 names, trademarks, service marks, copyrights, mask
4 works, trade secrets, and similar types of intangible
5 assets.

6 This paragraph shall not apply to the following:

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

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

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

23 (b) the transaction giving rise to the
24 intangible expense or cost between the
25 taxpayer and the person did not have as a
26 principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract
2 or agreement that reflects arm's-length terms;
3 or

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

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

21 (D-19) For taxable years ending on or after
22 December 31, 2008, an amount equal to the amount of
23 insurance premium expenses and costs otherwise allowed
24 as a deduction in computing base income, and that were
25 paid, accrued, or incurred, directly or indirectly, to
26 a person who would be a member of the same unitary

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

21 (D-20) For taxable years beginning on or after
22 January 1, 2002 and ending on or before December 31,
23 2006, in the case of a distribution from a qualified
24 tuition program under Section 529 of the Internal
25 Revenue Code, other than (i) a distribution from a
26 College Savings Pool created under Section 16.5 of the

1 State Treasurer Act or (ii) a distribution from the
2 Illinois Prepaid Tuition Trust Fund, an amount equal to
3 the amount excluded from gross income under Section
4 529(c)(3)(B). For taxable years beginning on or after
5 January 1, 2007, in the case of a distribution from a
6 qualified tuition program under Section 529 of the
7 Internal Revenue Code, other than (i) a distribution
8 from a College Savings Pool created under Section 16.5
9 of the State Treasurer Act, (ii) a distribution from
10 the Illinois Prepaid Tuition Trust Fund, or (iii) a
11 distribution from a qualified tuition program under
12 Section 529 of the Internal Revenue Code that (I)
13 adopts and determines that its offering materials
14 comply with the College Savings Plans Network's
15 disclosure principles and (II) has made reasonable
16 efforts to inform in-state residents of the existence
17 of in-state qualified tuition programs by informing
18 Illinois residents directly and, where applicable, to
19 inform financial intermediaries distributing the
20 program to inform in-state residents of the existence
21 of in-state qualified tuition programs at least
22 annually, an amount equal to the amount excluded from
23 gross income under Section 529(c)(3)(B).

24 For the purposes of this subparagraph (D-20), a
25 qualified tuition program has made reasonable efforts
26 if it makes disclosures (which may use the term

1 "in-state program" or "in-state plan" and need not
2 specifically refer to Illinois or its qualified
3 programs by name) (i) directly to prospective
4 participants in its offering materials or makes a
5 public disclosure, such as a website posting; and (ii)
6 where applicable, to intermediaries selling the
7 out-of-state program in the same manner that the
8 out-of-state program distributes its offering
9 materials;

10 (D-21) For taxable years beginning on or after
11 January 1, 2007, in the case of transfer of moneys from
12 a qualified tuition program under Section 529 of the
13 Internal Revenue Code that is administered by the State
14 to an out-of-state program, an amount equal to the
15 amount of moneys previously deducted from base income
16 under subsection (a) (2) (Y) of this Section.

17 and by deducting from the total so obtained the sum of the
18 following amounts:

19 (E) For taxable years ending before December 31,
20 2001, any amount included in such total in respect of
21 any compensation (including but not limited to any
22 compensation paid or accrued to a serviceman while a
23 prisoner of war or missing in action) paid to a
24 resident by reason of being on active duty in the Armed
25 Forces of the United States and in respect of any
26 compensation paid or accrued to a resident who as a

1 governmental employee was a prisoner of war or missing
2 in action, and in respect of any compensation paid to a
3 resident in 1971 or thereafter for annual training
4 performed pursuant to Sections 502 and 503, Title 32,
5 United States Code as a member of the Illinois National
6 Guard or, beginning with taxable years ending on or
7 after December 31, 2007, the National Guard of any
8 other state. For taxable years ending on or after
9 December 31, 2001, any amount included in such total in
10 respect of any compensation (including but not limited
11 to any compensation paid or accrued to a serviceman
12 while a prisoner of war or missing in action) paid to a
13 resident by reason of being a member of any component
14 of the Armed Forces of the United States and in respect
15 of any compensation paid or accrued to a resident who
16 as a governmental employee was a prisoner of war or
17 missing in action, and in respect of any compensation
18 paid to a resident in 2001 or thereafter by reason of
19 being a member of the Illinois National Guard or,
20 beginning with taxable years ending on or after
21 December 31, 2007, the National Guard of any other
22 state. The provisions of this amendatory Act of the
23 92nd General Assembly are exempt from the provisions of
24 Section 250;

25 (F) An amount equal to all amounts included in such
26 total pursuant to the provisions of Sections 402(a),

1 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
2 Internal Revenue Code, or included in such total as
3 distributions under the provisions of any retirement
4 or disability plan for employees of any governmental
5 agency or unit, or retirement payments to retired
6 partners, which payments are excluded in computing net
7 earnings from self employment by Section 1402 of the
8 Internal Revenue Code and regulations adopted pursuant
9 thereto;

10 (G) The valuation limitation amount;

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

14 (I) An amount equal to all amounts included in such
15 total pursuant to the provisions of Section 111 of the
16 Internal Revenue Code as a recovery of items previously
17 deducted from adjusted gross income in the computation
18 of taxable income;

19 (J) An amount equal to those dividends included in
20 such total which were paid by a corporation which
21 conducts business operations in an Enterprise Zone or
22 zones created under the Illinois Enterprise Zone Act or
23 a River Edge Redevelopment Zone or zones created under
24 the River Edge Redevelopment Zone Act, and conducts
25 substantially all of its operations in an Enterprise
26 Zone or zones or a River Edge Redevelopment Zone or

1 zones. This subparagraph (J) is exempt from the
2 provisions of Section 250;

3 (K) An amount equal to those dividends included in
4 such total that were paid by a corporation that
5 conducts business operations in a federally designated
6 Foreign Trade Zone or Sub-Zone and that is designated a
7 High Impact Business located in Illinois; provided
8 that dividends eligible for the deduction provided in
9 subparagraph (J) of paragraph (2) of this subsection
10 shall not be eligible for the deduction provided under
11 this subparagraph (K);

12 (L) For taxable years ending after December 31,
13 1983, an amount equal to all social security benefits
14 and railroad retirement benefits included in such
15 total pursuant to Sections 72(r) and 86 of the Internal
16 Revenue Code;

17 (M) With the exception of any amounts subtracted
18 under subparagraph (N), an amount equal to the sum of
19 all amounts disallowed as deductions by (i) Sections
20 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~
21 ~~1954, as now or hereafter amended~~, and all amounts of
22 expenses allocable to interest and disallowed as
23 deductions by Section 265(1) of the Internal Revenue
24 Code ~~of 1954, as now or hereafter amended; and~~ (ii) for
25 taxable years ending on or after August 13, 1999,
26 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of

1 the Internal Revenue Code; and (iii) for taxable years
2 ending on or after December 31, 2008, Section 45G(e)(3)
3 of the Internal Revenue Code; the provisions of this
4 subparagraph are exempt from the provisions of Section
5 250;

6 (N) An amount equal to all amounts included in such
7 total which are exempt from taxation by this State
8 either by reason of its statutes or Constitution or by
9 reason of the Constitution, treaties or statutes of the
10 United States; provided that, in the case of any
11 statute of this State that exempts income derived from
12 bonds or other obligations from the tax imposed under
13 this Act, the amount exempted shall be the interest net
14 of bond premium amortization;

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

18 (P) An amount equal to the amount of the deduction
19 used to compute the federal income tax credit for
20 restoration of substantial amounts held under claim of
21 right for the taxable year pursuant to Section 1341 of
22 the Internal Revenue Code or of any itemized deduction
23 taken from adjusted gross income in the computation of
24 taxable income for restoration of substantial amounts
25 held under claim of right for the taxable year ~~of 1986~~;

26 (Q) An amount equal to any amounts included in such

1 total, received by the taxpayer as an acceleration in
2 the payment of life, endowment or annuity benefits in
3 advance of the time they would otherwise be payable as
4 an indemnity for a terminal illness;

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

7 (S) An amount, to the extent included in adjusted
8 gross income, equal to the amount of a contribution
9 made in the taxable year on behalf of the taxpayer to a
10 medical care savings account established under the
11 Medical Care Savings Account Act or the Medical Care
12 Savings Account Act of 2000 to the extent the
13 contribution is accepted by the account administrator
14 as provided in that Act;

15 (T) An amount, to the extent included in adjusted
16 gross income, equal to the amount of interest earned in
17 the taxable year on a medical care savings account
18 established under the Medical Care Savings Account Act
19 or the Medical Care Savings Account Act of 2000 on
20 behalf of the taxpayer, other than interest added
21 pursuant to item (D-5) of this paragraph (2);

22 (U) For one taxable year beginning on or after
23 January 1, 1994, an amount equal to the total amount of
24 tax imposed and paid under subsections (a) and (b) of
25 Section 201 of this Act on grant amounts received by
26 the taxpayer under the Nursing Home Grant Assistance

1 Act during the taxpayer's taxable years 1992 and 1993;

2 (V) Beginning with tax years ending on or after
3 December 31, 1995 and ending with tax years ending on
4 or before December 31, 2004, an amount equal to the
5 amount paid by a taxpayer who is a self-employed
6 taxpayer, a partner of a partnership, or a shareholder
7 in a Subchapter S corporation for health insurance or
8 long-term care insurance for that taxpayer or that
9 taxpayer's spouse or dependents, to the extent that the
10 amount paid for that health insurance or long-term care
11 insurance may be deducted under Section 213 of the
12 Internal Revenue Code ~~of 1986~~, has not been deducted on
13 the federal income tax return of the taxpayer, and does
14 not exceed the taxable income attributable to that
15 taxpayer's income, self-employment income, or
16 Subchapter S corporation income; except that no
17 deduction shall be allowed under this item (V) if the
18 taxpayer is eligible to participate in any health
19 insurance or long-term care insurance plan of an
20 employer of the taxpayer or the taxpayer's spouse. The
21 amount of the health insurance and long-term care
22 insurance subtracted under this item (V) shall be
23 determined by multiplying total health insurance and
24 long-term care insurance premiums paid by the taxpayer
25 times a number that represents the fractional
26 percentage of eligible medical expenses under Section

1 213 of the Internal Revenue Code of 1986 not actually
2 deducted on the taxpayer's federal income tax return;

3 (W) For taxable years beginning on or after January
4 1, 1998, all amounts included in the taxpayer's federal
5 gross income in the taxable year from amounts converted
6 from a regular IRA to a Roth IRA. This paragraph is
7 exempt from the provisions of Section 250;

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

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

15 (Y) For taxable years beginning on or after January
16 1, 2002 and ending on or before December 31, 2004,
17 moneys contributed in the taxable year to a College
18 Savings Pool account under Section 16.5 of the State
19 Treasurer Act, except that amounts excluded from gross
20 income under Section 529(c)(3)(C)(i) of the Internal
21 Revenue Code shall not be considered moneys
22 contributed under this subparagraph (Y). For taxable
23 years beginning on or after January 1, 2005, a maximum
24 of \$10,000 contributed in the taxable year to (i) a
25 College Savings Pool account under Section 16.5 of the
26 State Treasurer Act or (ii) the Illinois Prepaid

1 Tuition Trust Fund, except that amounts excluded from
2 gross income under Section 529(c)(3)(C)(i) of the
3 Internal Revenue Code shall not be considered moneys
4 contributed under this subparagraph (Y). This
5 subparagraph (Y) is exempt from the provisions of
6 Section 250;

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

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

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

24 (3) for taxable years ending after December
25 31, 2005:

26 (i) for property on which a bonus

1 depreciation deduction of 30% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 30 and then divided by 70 (or "y" multiplied by
4 0.429); and

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

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

17 (AA) If the taxpayer sells, transfers, abandons,
18 or otherwise disposes of property for which the
19 taxpayer was required in any taxable year to make an
20 addition modification under subparagraph (D-15), then
21 an amount equal to that addition modification.

22 If the taxpayer continues to own property through
23 the last day of the last tax year for which the
24 taxpayer may claim a depreciation deduction for
25 federal income tax purposes and for which the taxpayer
26 was required in any taxable year to make an addition

1 modification under subparagraph (D-15), then an amount
2 equal to that addition modification.

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

6 This subparagraph (AA) is exempt from the
7 provisions of Section 250;

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

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

1 exempt from the provisions of Section 250;

2 (DD) An amount equal to the interest income taken
3 into account for the taxable year (net of the
4 deductions allocable thereto) with respect to
5 transactions with (i) a foreign person who would be a
6 member of the taxpayer's unitary business group but for
7 the fact that the foreign person's business activity
8 outside the United States is 80% or more of that
9 person's total business activity and (ii) for taxable
10 years ending on or after December 31, 2008, to a person
11 who would be a member of the same unitary business
12 group but for the fact that the person is prohibited
13 under Section 1501(a)(27) from being included in the
14 unitary business group because he or she is ordinarily
15 required to apportion business income under different
16 subsections of Section 304, but not to exceed the
17 addition modification required to be made for the same
18 taxable year under Section 203(a)(2)(D-17) for
19 interest paid, accrued, or incurred, directly or
20 indirectly, to the same person. This subparagraph (DD)
21 is exempt from the provisions of Section 250; ~~and~~

22 (EE) An amount equal to the income from intangible
23 property taken into account for the taxable year (net
24 of the deductions allocable thereto) with respect to
25 transactions with (i) a foreign person who would be a
26 member of the taxpayer's unitary business group but for

1 the fact that the foreign person's business activity
2 outside the United States is 80% or more of that
3 person's total business activity and (ii) for taxable
4 years ending on or after December 31, 2008, to a person
5 who would be a member of the same unitary business
6 group but for the fact that the person is prohibited
7 under Section 1501(a)(27) from being included in the
8 unitary business group because he or she is ordinarily
9 required to apportion business income under different
10 subsections of Section 304, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(a)(2)(D-18) for
13 intangible expenses and costs paid, accrued, or
14 incurred, directly or indirectly, to the same foreign
15 person. This subparagraph (EE) is exempt from the
16 provisions of Section 250; and

17 (FF) For taxable years ending on or after December
18 31, 2008, in the case of a taxpayer who was required to
19 add back any insurance premiums under Section
20 203(a)(2)(D-19), an amount equal to the amount of any
21 reimbursement received from the insurance company for
22 any loss covered by a policy for which those premiums
23 were paid, to the extent of the federal income tax
24 deduction that would have been allowable for the loss
25 in computing adjusted gross income if not for the
26 reimbursement. This subparagraph (FF) is exempt from

1 the provisions of Section 250.

2 (b) Corporations.

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

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

9 (A) An amount equal to all amounts paid or accrued
10 to the taxpayer as interest and all distributions
11 received from regulated investment companies during
12 the taxable year to the extent excluded from gross
13 income in the computation of taxable income;

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

17 (C) In the case of a regulated investment company,
18 an amount equal to the excess of (i) the net long-term
19 capital gain for the taxable year, over (ii) the amount
20 of the capital gain dividends designated as such in
21 accordance with Section 852(b)(3)(C) of the Internal
22 Revenue Code and any amount designated under Section
23 852(b)(3)(D) of the Internal Revenue Code,
24 attributable to the taxable year (this amendatory Act
25 of 1995 (Public Act 89-89) is declarative of existing

1 law and is not a new enactment);

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

6 (E) For taxable years in which a net operating loss
7 carryback or carryforward from a taxable year ending
8 prior to December 31, 1986 is an element of taxable
9 income under paragraph (1) of subsection (e) or
10 subparagraph (E) of paragraph (2) of subsection (e),
11 the amount by which addition modifications other than
12 those provided by this subparagraph (E) exceeded
13 subtraction modifications in such earlier taxable
14 year, with the following limitations applied in the
15 order that they are listed:

16 (i) the addition modification relating to the
17 net operating loss carried back or forward to the
18 taxable year from any taxable year ending prior to
19 December 31, 1986 shall be reduced by the amount of
20 addition modification under this subparagraph (E)
21 which related to that net operating loss and which
22 was taken into account in calculating the base
23 income of an earlier taxable year, and

24 (ii) the addition modification relating to the
25 net operating loss carried back or forward to the
26 taxable year from any taxable year ending prior to

1 December 31, 1986 shall not exceed the amount of
2 such carryback or carryforward;

3 For taxable years in which there is a net operating
4 loss carryback or carryforward from more than one other
5 taxable year ending prior to December 31, 1986, the
6 addition modification provided in this subparagraph
7 (E) shall be the sum of the amounts computed
8 independently under the preceding provisions of this
9 subparagraph (E) for each such taxable year;

10 (E-5) For taxable years ending after December 31,
11 1997, an amount equal to any eligible remediation costs
12 that the corporation deducted in computing adjusted
13 gross income and for which the corporation claims a
14 credit under subsection (l) of Section 201;

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

20 (E-11) If the taxpayer sells, transfers, abandons,
21 or otherwise disposes of property for which the
22 taxpayer was required in any taxable year to make an
23 addition modification under subparagraph (E-10), then
24 an amount equal to the aggregate amount of the
25 deductions taken in all taxable years under
26 subparagraph (T) with respect to that property.

1 If the taxpayer continues to own property through
2 the last day of the last tax year for which the
3 taxpayer may claim a depreciation deduction for
4 federal income tax purposes and for which the taxpayer
5 was allowed in any taxable year to make a subtraction
6 modification under subparagraph (T), then an amount
7 equal to that subtraction modification.

8 The taxpayer is required to make the addition
9 modification under this subparagraph only once with
10 respect to any one piece of property;

11 (E-12) An amount equal to the amount otherwise
12 allowed as a deduction in computing base income for
13 interest paid, accrued, or incurred, directly or
14 indirectly, (i) for taxable years ending on or after
15 December 31, 2004, to a foreign person who would be a
16 member of the same unitary business group but for the
17 fact the foreign person's business activity outside
18 the United States is 80% or more of the foreign
19 person's total business activity and (ii) for taxable
20 years ending on or after December 31, 2008, to a person
21 who would be a member of the same unitary business
22 group but for the fact that the person is prohibited
23 under Section 1501(a)(27) from being included in the
24 unitary business group because he or she is ordinarily
25 required to apportion business income under different
26 subsections of Section 304. The addition modification

1 required by this subparagraph shall be reduced to the
2 extent that dividends were included in base income of
3 the unitary group for the same taxable year and
4 received by the taxpayer or by a member of the
5 taxpayer's unitary business group (including amounts
6 included in gross income pursuant to Sections 951
7 through 964 of the Internal Revenue Code and amounts
8 included in gross income under Section 78 of the
9 Internal Revenue Code) with respect to the stock of the
10 same person to whom the interest was paid, accrued, or
11 incurred.

12 This paragraph shall not apply to the following:

13 (i) an item of interest paid, accrued, or
14 incurred, directly or indirectly, to a person who
15 is subject in a foreign country or state, other
16 than a state which requires mandatory unitary
17 reporting, to a tax on or measured by net income
18 with respect to such interest; or

19 (ii) an item of interest paid, accrued, or
20 incurred, directly or indirectly, to a person if
21 the taxpayer can establish, based on a
22 preponderance of the evidence, both of the
23 following:

24 (a) the person, during the same taxable
25 year, paid, accrued, or incurred, the interest
26 to a person that is not a related member, and

1 (b) the transaction giving rise to the
2 interest expense between the taxpayer and the
3 person did not have as a principal purpose the
4 avoidance of Illinois income tax, and is paid
5 pursuant to a contract or agreement that
6 reflects an arm's-length interest rate and
7 terms; or

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

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

21 Nothing in this subsection shall preclude the
22 Director from making any other adjustment
23 otherwise allowed under Section 404 of this Act for
24 any tax year beginning after the effective date of
25 this amendment provided such adjustment is made
26 pursuant to regulation adopted by the Department

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

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

1 Internal Revenue Code and amounts included in gross
2 income under Section 78 of the Internal Revenue Code)
3 with respect to the stock of the same person to whom
4 the intangible expenses and costs were directly or
5 indirectly paid, incurred, or accrued. The preceding
6 sentence shall not apply to the extent that the same
7 dividends caused a reduction to the addition
8 modification required under Section 203(b)(2)(E-12) of
9 this Act. As used in this subparagraph, the term
10 "intangible expenses and costs" includes (1) expenses,
11 losses, and costs for, or related to, the direct or
12 indirect acquisition, use, maintenance or management,
13 ownership, sale, exchange, or any other disposition of
14 intangible property; (2) losses incurred, directly or
15 indirectly, from factoring transactions or discounting
16 transactions; (3) royalty, patent, technical, and
17 copyright fees; (4) licensing fees; and (5) other
18 similar expenses and costs. For purposes of this
19 subparagraph, "intangible property" includes patents,
20 patent applications, trade names, trademarks, service
21 marks, copyrights, mask works, trade secrets, and
22 similar types of intangible assets.

23 This paragraph shall not apply to the following:

24 (i) any item of intangible expenses or costs
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a person who is

1 subject in a foreign country or state, other than a
2 state which requires mandatory unitary reporting,
3 to a tax on or measured by net income with respect
4 to such item; or

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

10 (a) the person during the same taxable
11 year paid, accrued, or incurred, the
12 intangible expense or cost to a person that is
13 not a related member, and

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

20 or

21 (iii) any item of intangible expense or cost
22 paid, accrued, or incurred, directly or
23 indirectly, from a transaction with a person if the
24 taxpayer establishes by clear and convincing
25 evidence, that the adjustments are unreasonable;
26 or if the taxpayer and the Director agree in

1 writing to the application or use of an alternative
2 method of apportionment under Section 304(f);

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

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

1 member of the taxpayer's unitary business group
2 (including amounts included in gross income under
3 Sections 951 through 964 of the Internal Revenue Code
4 and amounts included in gross income under Section 78
5 of the Internal Revenue Code) with respect to the stock
6 of the same person to whom the premiums and costs were
7 directly or indirectly paid, incurred, or accrued. The
8 preceding sentence does not apply to the extent that
9 the same dividends caused a reduction to the addition
10 modification required under Section 203(b) (2) (E-12) or
11 Section 203(b) (2) (E-13) of this Act;

12 (E-15) For taxable years beginning after December
13 31, 2008, any deduction for dividends paid by a captive
14 real estate investment trust that is allowed to a real
15 estate investment trust under Section 857(b) (2) (B) of
16 the Internal Revenue Code for dividends paid;

17 and by deducting from the total so obtained the sum of the
18 following amounts:

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

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

24 (H) In the case of a regulated investment company,
25 an amount equal to the amount of exempt interest
26 dividends as defined in subsection (b) (5) of Section

1 852 of the Internal Revenue Code, paid to shareholders
2 for the taxable year;

3 (I) With the exception of any amounts subtracted
4 under subparagraph (J), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2), and 265(a)(2) and amounts disallowed as
7 interest expense by Section 291(a)(3) of the Internal
8 Revenue Code, ~~as now or hereafter amended~~, and all
9 amounts of expenses allocable to interest and
10 disallowed as deductions by Section 265(a)(1) of the
11 Internal Revenue Code, ~~as now or hereafter amended~~; and
12 (ii) for taxable years ending on or after August 13,
13 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
14 832(b)(5)(B)(i) of the Internal Revenue Code; (iii)
15 for taxable years ending on or after December 31, 2008,
16 Section 45G(e)(3) of the Internal Revenue Code; and
17 (iv) for tax years ending on or after December 31,
18 2008, the policyholders' share of tax-exempt interest
19 of a life insurance company under Section 807(a)(2)(B)
20 of the Internal Revenue Code (in the case of a life
21 insurance company with gross income from a decrease in
22 reserves for the tax year) or Section 807(b)(2)(B) of
23 the Internal Revenue Code (in the case of a life
24 insurance company allowed a deduction for an increase
25 in reserves for the tax year); the provisions of this
26 subparagraph are exempt from the provisions of Section

1 250;

2 (J) An amount equal to all amounts included in such
3 total which are exempt from taxation by this State
4 either by reason of its statutes or Constitution or by
5 reason of the Constitution, treaties or statutes of the
6 United States; provided that, in the case of any
7 statute of this State that exempts income derived from
8 bonds or other obligations from the tax imposed under
9 this Act, the amount exempted shall be the interest net
10 of bond premium amortization;

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

21 (L) 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 (L);

4 (M) For any taxpayer that is a financial
5 organization within the meaning of Section 304(c) of
6 this Act, an amount included in such total as interest
7 income from a loan or loans made by such taxpayer to a
8 borrower, to the extent that such a loan is secured by
9 property which is eligible for the Enterprise Zone
10 Investment Credit or the River Edge Redevelopment Zone
11 Investment Credit. To determine the portion of a loan
12 or loans that is secured by property eligible for a
13 Section 201(f) investment credit to the borrower, the
14 entire principal amount of the loan or loans between
15 the taxpayer and the borrower should be divided into
16 the basis of the Section 201(f) investment credit
17 property which secures the loan or loans, using for
18 this purpose the original basis of such property on the
19 date that it was placed in service in the Enterprise
20 Zone or the River Edge Redevelopment Zone. The
21 subtraction modification available to taxpayer in any
22 year under this subsection shall be that portion of the
23 total interest paid by the borrower with respect to
24 such loan attributable to the eligible property as
25 calculated under the previous sentence. This
26 subparagraph (M) is exempt from the provisions of

1 Section 250;

2 (M-1) For any taxpayer that is a financial
3 organization within the meaning of Section 304(c) of
4 this Act, an amount included in such total as interest
5 income from a loan or loans made by such taxpayer to a
6 borrower, to the extent that such a loan is secured by
7 property which is eligible for the High Impact Business
8 Investment Credit. To determine the portion of a loan
9 or loans that is secured by property eligible for a
10 Section 201(h) investment credit to the borrower, the
11 entire principal amount of the loan or loans between
12 the taxpayer and the borrower should be divided into
13 the basis of the Section 201(h) investment credit
14 property which secures the loan or loans, using for
15 this purpose the original basis of such property on the
16 date that it was placed in service in a federally
17 designated Foreign Trade Zone or Sub-Zone located in
18 Illinois. No taxpayer that is eligible for the
19 deduction provided in subparagraph (M) of paragraph
20 (2) of this subsection shall be eligible for the
21 deduction provided under this subparagraph (M-1). The
22 subtraction modification available to taxpayers in any
23 year under this subsection shall be that portion of the
24 total interest paid by the borrower with respect to
25 such loan attributable to the eligible property as
26 calculated under the previous sentence;

1 (N) Two times any contribution made during the
2 taxable year to a designated zone organization to the
3 extent that the contribution (i) qualifies as a
4 charitable contribution under subsection (c) of
5 Section 170 of the Internal Revenue Code and (ii) must,
6 by its terms, be used for a project approved by the
7 Department of Commerce and Economic Opportunity under
8 Section 11 of the Illinois Enterprise Zone Act or under
9 Section 10-10 of the River Edge Redevelopment Zone Act.
10 This subparagraph (N) is exempt from the provisions of
11 Section 250;

12 (O) An amount equal to: (i) 85% for taxable years
13 ending on or before December 31, 1992, or, a percentage
14 equal to the percentage allowable under Section
15 243(a)(1) of the Internal Revenue Code ~~of 1986~~ for
16 taxable years ending after December 31, 1992, of the
17 amount by which dividends included in taxable income
18 and received from a corporation that is not created or
19 organized under the laws of the United States or any
20 state or political subdivision thereof, including, for
21 taxable years ending on or after December 31, 1988,
22 dividends received or deemed received or paid or deemed
23 paid under Sections 951 through 965 ~~964~~ of the Internal
24 Revenue Code, exceed the amount of the modification
25 provided under subparagraph (G) of paragraph (2) of
26 this subsection (b) which is related to such dividends,

1 and including, for taxable years ending on or after
2 December 31, 2008, dividends received from a captive
3 real estate investment trust; plus (ii) 100% of the
4 amount by which dividends, included in taxable income
5 and received, including, for taxable years ending on or
6 after December 31, 1988, dividends received or deemed
7 received or paid or deemed paid under Sections 951
8 through 964 of the Internal Revenue Code and including,
9 for taxable years ending on or after December 31, 2008,
10 dividends received from a captive real estate
11 investment trust, from any such corporation specified
12 in clause (i) that would but for the provisions of
13 Section 1504 (b) (3) of the Internal Revenue Code be
14 treated as a member of the affiliated group which
15 includes the dividend recipient, exceed the amount of
16 the modification provided under subparagraph (G) of
17 paragraph (2) of this subsection (b) which is related
18 to such dividends. This subparagraph (O) is exempt from
19 the provisions of Section 250 of this Act;

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

23 (Q) An amount equal to the amount of the deduction
24 used to compute the federal income tax credit for
25 restoration of substantial amounts held under claim of
26 right for the taxable year pursuant to Section 1341 of

1 the Internal Revenue Code ~~of 1986~~;

2 (R) On and after July 20, 1999, in the case of an
3 attorney-in-fact with respect to whom an interinsurer
4 or a reciprocal insurer has made the election under
5 Section 835 of the Internal Revenue Code, 26 U.S.C.
6 835, an amount equal to the excess, if any, of the
7 amounts paid or incurred by that interinsurer or
8 reciprocal insurer in the taxable year to the
9 attorney-in-fact over the deduction allowed to that
10 interinsurer or reciprocal insurer with respect to the
11 attorney-in-fact under Section 835(b) of the Internal
12 Revenue Code for the taxable year; the provisions of
13 this subparagraph are exempt from the provisions of
14 Section 250;

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

25 (T) For taxable years 2001 and thereafter, for the
26 taxable year in which the bonus depreciation deduction

1 is taken on the taxpayer's federal income tax return
2 under subsection (k) of Section 168 of the Internal
3 Revenue Code and for each applicable taxable year
4 thereafter, an amount equal to "x", where:

5 (1) "y" equals the amount of the depreciation
6 deduction taken for the taxable year on the
7 taxpayer's federal income tax return on property
8 for which the bonus depreciation deduction was
9 taken in any year under subsection (k) of Section
10 168 of the Internal Revenue Code, but not including
11 the bonus depreciation deduction;

12 (2) for taxable years ending on or before
13 December 31, 2005, "x" equals "y" multiplied by 30
14 and then divided by 70 (or "y" multiplied by
15 0.429); and

16 (3) for taxable years ending after December
17 31, 2005:

18 (i) for property on which a bonus
19 depreciation deduction of 30% of the adjusted
20 basis was taken, "x" equals "y" multiplied by
21 30 and then divided by 70 (or "y" multiplied by
22 0.429); and

23 (ii) for property on which a bonus
24 depreciation deduction of 50% of the adjusted
25 basis was taken, "x" equals "y" multiplied by
26 1.0.

1 The aggregate amount deducted under this
2 subparagraph in all taxable years for any one piece of
3 property may not exceed the amount of the bonus
4 depreciation deduction taken on that property on the
5 taxpayer's federal income tax return under subsection
6 (k) of Section 168 of the Internal Revenue Code. This
7 subparagraph (T) is exempt from the provisions of
8 Section 250;

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

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

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

24 This subparagraph (U) is exempt from the
25 provisions of Section 250;

26 (V) The amount of: (i) any interest income (net of

1 the deductions allocable thereto) taken into account
2 for the taxable year with respect to a transaction with
3 a taxpayer that is required to make an addition
4 modification with respect to such transaction under
5 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
6 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
7 the amount of such addition modification, (ii) any
8 income from intangible property (net of the deductions
9 allocable thereto) taken into account for the taxable
10 year with respect to a transaction with a taxpayer that
11 is required to make an addition modification with
12 respect to such transaction under Section
13 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
14 203(d)(2)(D-8), but not to exceed the amount of such
15 addition modification, and (iii) any insurance premium
16 income (net of deductions allocable thereto, including
17 adjustments to loss reserves and payments for losses
18 with respect to a policy for which the premium was
19 received) taken into account for the taxable year with
20 respect to a transaction with a taxpayer that is
21 required to make an addition modification with respect
22 to such transaction under Section 203(a)(2)(D-19),
23 Section 203(b)(2)(E-14), Section 203(c)(2)(G-14), or
24 Section 203(d)(2)(D-9), but not to exceed the amount of
25 that addition modification. This subparagraph (V) is
26 exempt from the provisions of Section 250;

1 (W) An amount equal to the interest income taken
2 into account for the taxable year (net of the
3 deductions allocable thereto) with respect to
4 transactions with (i) 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 and (ii) for taxable
9 years ending on or after December 31, 2008, to a person
10 who would be a member of the same unitary business
11 group but for the fact that the person is prohibited
12 under Section 1501(a) (27) from being included in the
13 unitary business group because he or she is ordinarily
14 required to apportion business income under different
15 subsections of Section 304, but not to exceed the
16 addition modification required to be made for the same
17 taxable year under Section 203(b) (2) (E-12) for
18 interest paid, accrued, or incurred, directly or
19 indirectly, to the same person. This subparagraph (W)
20 is exempt from the provisions of Section 250; ~~and~~

21 (X) An amount equal to the income from intangible
22 property taken into account for the taxable year (net
23 of the deductions allocable thereto) with respect to
24 transactions with (i) a foreign person who would be a
25 member of the taxpayer's unitary business group but for
26 the fact that the foreign person's business activity

1 outside the United States is 80% or more of that
2 person's total business activity and (ii) for taxable
3 years ending on or after December 31, 2008, to a person
4 who would be a member of the same unitary business
5 group but for the fact that the person is prohibited
6 under Section 1501(a)(27) from being included in the
7 unitary business group because he or she is ordinarily
8 required to apportion business income under different
9 subsections of Section 304, but not to exceed the
10 addition modification required to be made for the same
11 taxable year under Section 203(b)(2)(E-13) for
12 intangible expenses and costs paid, accrued, or
13 incurred, directly or indirectly, to the same foreign
14 person. This subparagraph (X) is exempt from the
15 provisions of Section 250; and

16 (Y) For taxable years ending on or after December
17 31, 2008, in the case of a taxpayer who was required to
18 add back any insurance premiums under Section
19 203(b)(2)(E-14), an amount equal to the amount of any
20 reimbursement received from the insurance company for
21 any loss covered by a policy for which those premiums
22 were paid, to the extent of the federal income tax
23 deduction that would have been allowable for the loss
24 if not for the reimbursement. This subparagraph (Y) is
25 exempt from the provisions of Section 250.

26 (3) Special rule. For purposes of paragraph (2) (A),

1 "gross income" in the case of a life insurance company, for
2 tax years ending on and after December 31, 1994, and prior
3 to December 31, 2008, shall mean the gross investment
4 income for the taxable year and, for tax years ending on or
5 after December 31, 2008, shall mean all amounts included in
6 life insurance gross income under Section 803(a)(3) of the
7 Internal Revenue Code.

8 (c) Trusts and estates.

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

12 (2) Modifications. Subject to the provisions of
13 paragraph (3), the taxable income referred to in paragraph
14 (1) shall be modified by adding thereto the sum of the
15 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) In the case of (i) an estate, \$600; (ii) a
21 trust which, under its governing instrument, is
22 required to distribute all of its income currently,
23 \$300; and (iii) any other trust, \$100, but in each such
24 case, only to the extent such amount was deducted in
25 the computation of taxable income;

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

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

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

18 (i) the addition modification relating to the
19 net operating loss carried back or forward to the
20 taxable year from any taxable year ending prior to
21 December 31, 1986 shall be reduced by the amount of
22 addition modification under this subparagraph (E)
23 which related to that net operating loss and which
24 was taken into account in calculating the base
25 income of an earlier taxable year, and

26 (ii) the addition modification relating to the

1 net operating loss carried back or forward to the
2 taxable year from any taxable year ending prior to
3 December 31, 1986 shall not exceed the amount of
4 such carryback or carryforward;

5 For taxable years in which there is a net operating
6 loss carryback or carryforward from more than one other
7 taxable year ending prior to December 31, 1986, the
8 addition modification provided in this subparagraph
9 (E) shall be the sum of the amounts computed
10 independently under the preceding provisions of this
11 subparagraph (E) for each such taxable year;

12 (F) For taxable years ending on or after January 1,
13 1989, an amount equal to the tax deducted pursuant to
14 Section 164 of the Internal Revenue Code if the trust
15 or estate is claiming the same tax for purposes of the
16 Illinois foreign tax credit under Section 601 of this
17 Act;

18 (G) An amount equal to the amount of the capital
19 gain deduction allowable under the Internal Revenue
20 Code, to the extent deducted from gross income in the
21 computation of taxable income;

22 (G-5) For taxable years ending after December 31,
23 1997, an amount equal to any eligible remediation costs
24 that the trust or estate deducted in computing adjusted
25 gross income and for which the trust or estate claims a
26 credit under subsection (1) of Section 201;

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

6 (G-11) If the taxpayer sells, transfers, abandons,
7 or otherwise disposes of property for which the
8 taxpayer was required in any taxable year to make an
9 addition modification under subparagraph (G-10), then
10 an amount equal to the aggregate amount of the
11 deductions taken in all taxable years under
12 subparagraph (R) with respect to that property.

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

20 The taxpayer is required to make the addition
21 modification under this subparagraph only once with
22 respect to any one piece of property;

23 (G-12) An amount equal to the amount otherwise
24 allowed as a deduction in computing base income for
25 interest paid, accrued, or incurred, directly or
26 indirectly, (i) for taxable years ending on or after

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

24 This paragraph shall not apply to the following:

25 (i) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a person who

1 is subject in a foreign country or state, other
2 than a state which requires mandatory unitary
3 reporting, to a tax on or measured by net income
4 with respect to such interest; or

5 (ii) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to a person if
7 the taxpayer can establish, based on a
8 preponderance of the evidence, both of the
9 following:

10 (a) the person, during the same taxable
11 year, paid, accrued, or incurred, the interest
12 to a person that is not a related member, and

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

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

26 (iv) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a person if
2 the taxpayer establishes by clear and convincing
3 evidence that the adjustments are unreasonable; or
4 if the taxpayer and the Director agree in writing
5 to the application or use of an alternative method
6 of apportionment under Section 304(f).

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

16 (G-13) An amount equal to the amount of intangible
17 expenses and costs otherwise allowed as a deduction in
18 computing base income, and that were paid, accrued, or
19 incurred, directly or indirectly, (i) for taxable
20 years ending on or after December 31, 2004, to a
21 foreign person who would be a member of the same
22 unitary business group but for the fact that the
23 foreign person's business activity outside the United
24 States is 80% or more of that person's total business
25 activity and (ii) for taxable years ending on or after
26 December 31, 2008, to a person who would be a member of

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

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

7 (iii) any item of intangible expense or cost
8 paid, accrued, or incurred, directly or
9 indirectly, from a transaction with a person if the
10 taxpayer establishes by clear and convincing
11 evidence, that the adjustments are unreasonable;
12 or if the taxpayer and the Director agree in
13 writing to the application or use of an alternative
14 method of apportionment under Section 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 (G-14) 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 premiums and costs were
19 directly or indirectly paid, incurred, or accrued. The
20 preceding sentence does not apply to the extent that
21 the same dividends caused a reduction to the addition
22 modification required under Section 203(c)(2)(G-12) or
23 Section 203(c)(2)(G-13) of this Act.

24 and by deducting from the total so obtained the sum of the
25 following amounts:

26 (H) An amount equal to all amounts included in such

1 total pursuant to the provisions of Sections 402(a),
2 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
3 Internal Revenue Code or included in such total as
4 distributions under the provisions of any retirement
5 or disability plan for employees of any governmental
6 agency or unit, or retirement payments to retired
7 partners, which payments are excluded in computing net
8 earnings from self employment by Section 1402 of the
9 Internal Revenue Code and regulations adopted pursuant
10 thereto;

11 (I) The valuation limitation amount;

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

15 (K) An amount equal to all amounts included in
16 taxable income as modified by subparagraphs (A), (B),
17 (C), (D), (E), (F) and (G) which are exempt from
18 taxation by this State either by reason of its statutes
19 or Constitution or by reason of the Constitution,
20 treaties or statutes of the United States; provided
21 that, in the case of any statute of this State 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 interest net of bond premium
25 amortization;

26 (L) With the exception of any amounts subtracted

1 under subparagraph (K), an amount equal to the sum of
2 all amounts disallowed as deductions by (i) Sections
3 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
4 ~~as now or hereafter amended~~, and all amounts of
5 expenses allocable to interest and disallowed as
6 deductions by Section 265(1) of the Internal Revenue
7 Code of 1954, ~~as now or hereafter amended~~; and (ii) for
8 taxable years ending on or after August 13, 1999,
9 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
10 the Internal Revenue Code; and (iii) for taxable years
11 ending on or after December 31, 2008, Section 45G(e) (3)
12 of the Internal Revenue Code; the provisions of this
13 subparagraph are exempt from the provisions of Section
14 250;

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

25 (N) An amount equal to any contribution made to a
26 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

2 (O) An amount equal to those dividends included in
3 such total that were paid by a corporation that
4 conducts business operations in a federally designated
5 Foreign Trade Zone or Sub-Zone and that is designated a
6 High Impact Business located in Illinois; provided
7 that dividends eligible for the deduction provided in
8 subparagraph (M) of paragraph (2) of this subsection
9 shall not be eligible for the deduction provided under
10 this subparagraph (O);

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) For taxable year 1999 and thereafter, an amount
17 equal to the amount of any (i) distributions, to the
18 extent includible in gross income for federal income
19 tax purposes, made to the taxpayer because of his or
20 her status as a victim of persecution for racial or
21 religious reasons by Nazi Germany or any other Axis
22 regime or as an heir of the victim and (ii) items of
23 income, to the extent includible in gross income for
24 federal income tax purposes, attributable to, derived
25 from or in any way related to assets stolen from,
26 hidden from, or otherwise lost to a victim of

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

23 (R) 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 (R) is exempt from the provisions of
6 Section 250;

7 (S) If the taxpayer sells, transfers, abandons, or
8 otherwise disposes of property for which the taxpayer
9 was required in any taxable year to make an addition
10 modification under subparagraph (G-10), then an amount
11 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 (G-10), 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 (S) is exempt from the
23 provisions of Section 250;

24 (T) The amount of (i) any interest income (net of
25 the deductions allocable thereto) taken into account
26 for the taxable year with respect to a transaction with

1 a taxpayer that is required to make an addition
2 modification with respect to such transaction under
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
5 the amount of such addition modification and (ii) any
6 income from intangible property (net of the deductions
7 allocable thereto) taken into account for the taxable
8 year with respect to a transaction with a taxpayer that
9 is required to make an addition modification with
10 respect to such transaction under Section
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
12 203(d)(2)(D-8), but not to exceed the amount of such
13 addition modification. This subparagraph (T) is exempt
14 from the provisions of Section 250;

15 (U) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with (i) a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(c)(2)(G-12) for
6 interest paid, accrued, or incurred, directly or
7 indirectly, to the same person. This subparagraph (U)
8 is exempt from the provisions of Section 250; ~~and~~

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

1 incurred, directly or indirectly, to the same ~~foreign~~
2 person. This subparagraph (V) is exempt from the
3 provisions of Section 250;

4 (W) in the case of an estate, an amount equal to
5 all amounts included in such total pursuant to the
6 provisions of Section 111 of the Internal Revenue Code
7 as a recovery of items previously deducted by the
8 decedent from adjusted gross income in the computation
9 of taxable income. This subparagraph (W) is exempt from
10 Section 250;

11 (X) an amount equal to the refund included in such
12 total of any tax deducted for federal income tax
13 purposes, to the extent that deduction was added back
14 under subparagraph (F). This subparagraph (X) is
15 exempt from the provisions of Section 250; and

16 (Y) For taxable years ending on or after December
17 31, 2008, in the case of a taxpayer who was required to
18 add back any insurance premiums under Section
19 203(c)(2)(G-14), an amount equal to the amount of any
20 reimbursement received from the insurance company for
21 any loss covered by a policy for which those premiums
22 were paid, to the extent of the federal income tax
23 deduction that would have been allowable for the loss
24 if not for the reimbursement. This subparagraph (Y) is
25 exempt from the provisions of Section 250.

26 (3) Limitation. The amount of any modification

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

7 (d) Partnerships.

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

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

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

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

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

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

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

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

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

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

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

25 (D-7) An amount equal to the amount otherwise
26 allowed as a deduction in computing base income for

1 interest paid, accrued, or incurred, directly or
2 indirectly, (i) for taxable years ending on or after
3 December 31, 2004, to a foreign person who would be a
4 member of the same unitary business group but for the
5 fact the foreign person's business activity outside
6 the United States is 80% or more of the foreign
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. The addition modification
15 required by this subparagraph shall be reduced to the
16 extent that dividends were included in base income of
17 the unitary group for the same taxable year and
18 received by the taxpayer or by a member of the
19 taxpayer's unitary business group (including amounts
20 included in gross income pursuant to Sections 951
21 through 964 of the Internal Revenue Code and amounts
22 included in gross income under Section 78 of the
23 Internal Revenue Code) with respect to the stock of the
24 same person to whom the interest was paid, accrued, or
25 incurred.

26 This paragraph shall not apply to the following:

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

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

12 (a) the person, during the same taxable
13 year, paid, accrued, or incurred, the interest
14 to a person that is not a related member, and

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

22 (iii) the taxpayer can establish, based on
23 clear and convincing evidence, that the interest
24 paid, accrued, or incurred relates to a contract or
25 agreement entered into at arm's-length rates and
26 terms and the principal purpose for the payment is

1 not federal or Illinois tax avoidance; or
2 (iv) an item of interest paid, accrued, or
3 incurred, directly or indirectly, to a person if
4 the taxpayer establishes by clear and convincing
5 evidence that the adjustments are unreasonable; or
6 if the taxpayer and the Director agree in writing
7 to the application or use of an alternative method
8 of apportionment under Section 304(f).

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

18 (D-8) An amount equal to the amount of intangible
19 expenses and costs otherwise allowed as a deduction in
20 computing base income, and that were paid, accrued, or
21 incurred, directly or indirectly, (i) for taxable
22 years ending on or after December 31, 2004, to a
23 foreign person who would be a member of the same
24 unitary business group but for the fact that the
25 foreign person's business activity outside the United
26 States is 80% or more of that person's total business

1 activity and (ii) for taxable years ending on or after
2 December 31, 2008, to a person who would be a member of
3 the same unitary business group but for the fact that
4 the person is prohibited under Section 1501(a)(27)
5 from being included in the unitary business group
6 because he or she is ordinarily required to apportion
7 business income under different subsections of Section
8 304. The addition modification required by this
9 subparagraph shall be reduced to the extent that
10 dividends were included in base income of the unitary
11 group for the same taxable year and received by the
12 taxpayer or by a member of the taxpayer's unitary
13 business group (including amounts included in gross
14 income pursuant to Sections 951 through 964 of the
15 Internal Revenue Code and amounts included in gross
16 income under Section 78 of the Internal Revenue Code)
17 with respect to the stock of the same person to whom
18 the intangible expenses and costs were directly or
19 indirectly paid, incurred or accrued. The preceding
20 sentence shall not apply to the extent that the same
21 dividends caused a reduction to the addition
22 modification required under Section 203(d)(2)(D-7) of
23 this Act. As used in this subparagraph, the term
24 "intangible expenses and costs" includes (1) expenses,
25 losses, and costs for, or related to, the direct or
26 indirect acquisition, use, maintenance or management,

1 ownership, sale, exchange, or any other disposition of
2 intangible property; (2) losses incurred, directly or
3 indirectly, from factoring transactions or discounting
4 transactions; (3) royalty, patent, technical, and
5 copyright fees; (4) licensing fees; and (5) other
6 similar expenses and costs. For purposes of this
7 subparagraph, "intangible property" includes patents,
8 patent applications, trade names, trademarks, service
9 marks, copyrights, mask works, trade secrets, and
10 similar types of intangible assets;

11 This paragraph shall not apply to the following:

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

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

24 (a) the person during the same taxable
25 year paid, accrued, or incurred, the
26 intangible expense or cost to a person that is

1 not a related member, and

2 (b) the transaction giving rise to the
3 intangible expense or cost between the
4 taxpayer and the person did not have as a
5 principal purpose the avoidance of Illinois
6 income tax, and is paid pursuant to a contract
7 or agreement that reflects arm's-length terms;
8 or

9 (iii) any item of intangible expense or cost
10 paid, accrued, or incurred, directly or
11 indirectly, from a transaction with a person if the
12 taxpayer establishes by clear and convincing
13 evidence, that the adjustments are unreasonable;
14 or if the taxpayer and the Director agree in
15 writing to the application or use of an alternative
16 method of apportionment under Section 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 (D-9) For taxable years ending on or after December

1 31, 2008, an amount equal to the amount of insurance
2 premium expenses and costs otherwise allowed as a
3 deduction in computing base income, and that were paid,
4 accrued, or incurred, directly or indirectly, to a
5 person who would be a member of the same unitary
6 business group but for the fact that the person is
7 prohibited under Section 1501(a)(27) from being
8 included in the unitary business group because he or
9 she is ordinarily required to apportion business
10 income under different subsections of Section 304. The
11 addition modification required by this subparagraph
12 shall be reduced to the extent that dividends were
13 included in base income of the unitary group for the
14 same taxable year and received by the taxpayer or by a
15 member of the taxpayer's unitary business group
16 (including amounts included in gross income under
17 Sections 951 through 964 of the Internal Revenue Code
18 and amounts included in gross income under Section 78
19 of the Internal Revenue Code) with respect to the stock
20 of the same person to whom the premiums and costs were
21 directly or indirectly paid, incurred, or accrued. The
22 preceding sentence does not apply to the extent that
23 the same dividends caused a reduction to the addition
24 modification required under Section 203(d)(2)(D-7) or
25 Section 203(d)(2)(D-8) of this Act.

26 and by deducting from the total so obtained the following

1 amounts:

2 (E) The valuation limitation amount;

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

6 (G) An amount equal to all amounts included in
7 taxable income as modified by subparagraphs (A), (B),
8 (C) and (D) which are exempt from taxation by this
9 State either by reason of its statutes or Constitution
10 or by reason of the Constitution, treaties or statutes
11 of the United States; provided that, in the case of any
12 statute of this State that exempts income derived from
13 bonds or other obligations from the tax imposed under
14 this Act, the amount exempted shall be the interest net
15 of bond premium amortization;

16 (H) Any income of the partnership which
17 constitutes personal service income as defined in
18 Section 1348 (b) (1) of the Internal Revenue Code (as
19 in effect December 31, 1981) or a reasonable allowance
20 for compensation paid or accrued for services rendered
21 by partners to the partnership, whichever is greater;

22 (I) An amount equal to all amounts of income
23 distributable to an entity subject to the Personal
24 Property Tax Replacement Income Tax imposed by
25 subsections (c) and (d) of Section 201 of this Act
26 including amounts distributable to organizations

1 exempt from federal income tax by reason of Section
2 501(a) of the Internal Revenue Code;

3 (J) With the exception of any amounts subtracted
4 under subparagraph (G), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~
7 ~~1954, as now or hereafter amended,~~ and all amounts of
8 expenses allocable to interest and disallowed as
9 deductions by Section 265(1) of the Internal Revenue
10 Code, ~~as now or hereafter amended;~~ and (ii) for taxable
11 years ending on or after August 13, 1999, Sections
12 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
13 Internal Revenue Code; and (iii) for taxable years
14 ending on or after December 31, 2008, Section 45G(e) (3)
15 of the Internal Revenue Code; the provisions of this
16 subparagraph are exempt from the provisions of Section
17 250;

18 (K) An amount equal to those dividends included in
19 such total which were paid by a corporation which
20 conducts business operations in an Enterprise Zone or
21 zones created under the Illinois Enterprise Zone Act,
22 enacted by the 82nd General Assembly, or a River Edge
23 Redevelopment Zone or zones created under the River
24 Edge Redevelopment Zone Act and conducts substantially
25 all of its operations in an Enterprise Zone or Zones or
26 from a River Edge Redevelopment Zone or zones. This

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

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

6 (M) An amount equal to those dividends included in
7 such total that were paid by a corporation that
8 conducts business operations in a federally designated
9 Foreign Trade Zone or Sub-Zone and that is designated a
10 High Impact Business located in Illinois; provided
11 that dividends eligible for the deduction provided in
12 subparagraph (K) of paragraph (2) of this subsection
13 shall not be eligible for the deduction provided under
14 this subparagraph (M);

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

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

26 (1) "y" equals the amount of the depreciation

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

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

11 (3) for taxable years ending after December
12 31, 2005:

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

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

22 The aggregate amount deducted under this
23 subparagraph in all taxable years for any one piece of
24 property may not exceed the amount of the bonus
25 depreciation deduction taken on that property on the
26 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code. This
2 subparagraph (O) is exempt from the provisions of
3 Section 250;

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

9 If the taxpayer continues to own property through
10 the last day of the last tax year for which the
11 taxpayer may claim a depreciation deduction for
12 federal income tax purposes and for which the taxpayer
13 was required in any taxable year to make an addition
14 modification under subparagraph (D-5), then an amount
15 equal to that addition modification.

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

19 This subparagraph (P) is exempt from the
20 provisions of Section 250;

21 (Q) The amount of (i) any interest income (net of
22 the deductions allocable thereto) taken into account
23 for the taxable year with respect to a transaction with
24 a taxpayer that is required to make an addition
25 modification with respect to such transaction under
26 Section 203(a)(2)(D-17), 203(b)(2)(E-12),

1 203(c) (2) (G-12), or 203(d) (2) (D-7), but not to exceed
2 the amount of such addition modification and (ii) any
3 income from intangible property (net of the deductions
4 allocable thereto) taken into account for the taxable
5 year with respect to a transaction with a taxpayer that
6 is required to make an addition modification with
7 respect to such transaction under Section
8 203(a) (2) (D-18), 203(b) (2) (E-13), 203(c) (2) (G-13), or
9 203(d) (2) (D-8), but not to exceed the amount of such
10 addition modification. This subparagraph (Q) is exempt
11 from Section 250;

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

1 addition modification required to be made for the same
2 taxable year under Section 203(d)(2)(D-7) for interest
3 paid, accrued, or incurred, directly or indirectly, to
4 the same person. This subparagraph (R) is exempt from
5 Section 250; ~~and~~

6 (S) An amount equal to the income from intangible
7 property taken into account for the taxable year (net
8 of the deductions allocable thereto) with respect to
9 transactions with (i) a foreign person who would be a
10 member of the taxpayer's unitary business group but for
11 the fact that the foreign person's business activity
12 outside the United States is 80% or more of that
13 person's total business activity and (ii) for taxable
14 years ending on or after December 31, 2008, to a person
15 who would be a member of the same unitary business
16 group but for the fact that the person is prohibited
17 under Section 1501(a)(27) from being included in the
18 unitary business group because he or she is ordinarily
19 required to apportion business income under different
20 subsections of Section 304, but not to exceed the
21 addition modification required to be made for the same
22 taxable year under Section 203(d)(2)(D-8) for
23 intangible expenses and costs paid, accrued, or
24 incurred, directly or indirectly, to the same person.
25 This subparagraph (S) is exempt from Section 250; and

26 (T) For taxable years ending on or after December

1 31, 2008, in the case of a taxpayer who was required to
2 add back any insurance premiums under Section
3 203(d)(2)(D-9), an amount equal to the amount of any
4 reimbursement received from the insurance company for
5 any loss covered by a policy for which those premiums
6 were paid, to the extent of the federal income tax
7 deduction that would have been allowable for the loss
8 if not for the reimbursement. This subparagraph (T) is
9 exempt from the provisions of Section 250.

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

11 (1) In general. Subject to the provisions of paragraph
12 (2) and subsection (b) (3), for purposes of this Section
13 and Section 803(e), a taxpayer's gross income, adjusted
14 gross income, or taxable income for the taxable year shall
15 mean the amount of gross income, adjusted gross income or
16 taxable income properly reportable for federal income tax
17 purposes for the taxable year under the provisions of the
18 Internal Revenue Code. Taxable income may be less than
19 zero. However, for taxable years ending on or after
20 December 31, 1986, net operating loss carryforwards from
21 taxable years ending prior to December 31, 1986, may not
22 exceed the sum of federal taxable income for the taxable
23 year before net operating loss deduction, plus the excess
24 of addition modifications over subtraction modifications
25 for the taxable year. For taxable years ending prior to

1 December 31, 1986, taxable income may never be an amount in
2 excess of the net operating loss for the taxable year as
3 defined in subsections (c) and (d) of Section 172 of the
4 Internal Revenue Code, provided that when taxable income of
5 a corporation (other than a Subchapter S corporation),
6 trust, or estate is less than zero and addition
7 modifications, other than those provided by subparagraph
8 (E) of paragraph (2) of subsection (b) for corporations or
9 subparagraph (E) of paragraph (2) of subsection (c) for
10 trusts and estates, exceed subtraction modifications, an
11 addition modification must be made under those
12 subparagraphs for any other taxable year to which the
13 taxable income less than zero (net operating loss) is
14 applied under Section 172 of the Internal Revenue Code or
15 under subparagraph (E) of paragraph (2) of this subsection
16 (e) applied in conjunction with Section 172 of the Internal
17 Revenue Code.

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

21 (A) Certain life insurance companies. In the case
22 of a life insurance company subject to the tax imposed
23 by Section 801 of the Internal Revenue Code, life
24 insurance company taxable income, plus the amount of
25 distribution from pre-1984 policyholder surplus
26 accounts as calculated under Section 815a of the

1 Internal Revenue Code;

2 (B) Certain other insurance companies. In the case
3 of mutual insurance companies subject to the tax
4 imposed by Section 831 of the Internal Revenue Code,
5 insurance company taxable income;

6 (C) Regulated investment companies. In the case of
7 a regulated investment company subject to the tax
8 imposed by Section 852 of the Internal Revenue Code,
9 investment company taxable income;

10 (D) Real estate investment trusts. In the case of a
11 real estate investment trust subject to the tax imposed
12 by Section 857 of the Internal Revenue Code, real
13 estate investment trust taxable income;

14 (E) Consolidated corporations. In the case of a
15 corporation which is a member of an affiliated group of
16 corporations filing a consolidated income tax return
17 for the taxable year for federal income tax purposes,
18 taxable income determined as if such corporation had
19 filed a separate return for federal income tax purposes
20 for the taxable year and each preceding taxable year
21 for which it was a member of an affiliated group. For
22 purposes of this subparagraph, the taxpayer's separate
23 taxable income shall be determined as if the election
24 provided by Section 243(b) (2) of the Internal Revenue
25 Code had been in effect for all such years;

26 (F) Cooperatives. In the case of a cooperative

1 corporation or association, the taxable income of such
2 organization determined in accordance with the
3 provisions of Section 1381 through 1388 of the Internal
4 Revenue Code;

5 (G) Subchapter S corporations. In the case of: (i)
6 a Subchapter S corporation for which there is in effect
7 an election for the taxable year under Section 1362 of
8 the Internal Revenue Code, the taxable income of such
9 corporation determined in accordance with Section
10 1363(b) of the Internal Revenue Code, except that
11 taxable income shall take into account those items
12 which are required by Section 1363(b)(1) of the
13 Internal Revenue Code to be separately stated; and (ii)
14 a Subchapter S corporation for which there is in effect
15 a federal election to opt out of the provisions of the
16 Subchapter S Revision Act of 1982 and have applied
17 instead the prior federal Subchapter S rules as in
18 effect on July 1, 1982, the taxable income of such
19 corporation determined in accordance with the federal
20 Subchapter S rules as in effect on July 1, 1982; and

21 (H) Partnerships. In the case of a partnership,
22 taxable income determined in accordance with Section
23 703 of the Internal Revenue Code, except that taxable
24 income shall take into account those items which are
25 required by Section 703(a)(1) to be separately stated
26 but which would be taken into account by an individual

1 in calculating his taxable income.

2 (3) Recapture of business expenses on disposition of
3 asset or business. Notwithstanding any other law to the
4 contrary, if in prior years income from an asset or
5 business has been classified as business income and in a
6 later year is demonstrated to be non-business income, then
7 all expenses, without limitation, deducted in such later
8 year and in the 2 immediately preceding taxable years
9 related to that asset or business that generated the
10 non-business income shall be added back and recaptured as
11 business income in the year of the disposition of the asset
12 or business. Such amount shall be apportioned to Illinois
13 using the greater of the apportionment fraction computed
14 for the business under Section 304 of this Act for the
15 taxable year or the average of the apportionment fractions
16 computed for the business under Section 304 of this Act for
17 the taxable year and for the 2 immediately preceding
18 taxable years.

19 (f) Valuation limitation amount.

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

23 (A) The sum of the pre-August 1, 1969 appreciation
24 amounts (to the extent consisting of gain reportable
25 under the provisions of Section 1245 or 1250 of the
26 Internal Revenue Code) for all property in respect of

1 which such gain was reported for the taxable year; plus

2 (B) The lesser of (i) the sum of the pre-August 1,
3 1969 appreciation amounts (to the extent consisting of
4 capital gain) for all property in respect of which such
5 gain was reported for federal income tax purposes for
6 the taxable year, or (ii) the net capital gain for the
7 taxable year, reduced in either case by any amount of
8 such gain included in the amount determined under
9 subsection (a) (2) (F) or (c) (2) (H).

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

11 (A) If the fair market value of property referred
12 to in paragraph (1) was readily ascertainable on August
13 1, 1969, the pre-August 1, 1969 appreciation amount for
14 such property is the lesser of (i) the excess of such
15 fair market value over the taxpayer's basis (for
16 determining gain) for such property on that date
17 (determined under the Internal Revenue Code as in
18 effect on that date), or (ii) the total gain realized
19 and reportable for federal income tax purposes in
20 respect of the sale, exchange or other disposition of
21 such property.

22 (B) If the fair market value of property referred
23 to in paragraph (1) was not readily ascertainable on
24 August 1, 1969, the pre-August 1, 1969 appreciation
25 amount for such property is that amount which bears the
26 same ratio to the total gain reported in respect of the

1 property for federal income tax purposes for the
2 taxable year, as the number of full calendar months in
3 that part of the taxpayer's holding period for the
4 property ending July 31, 1969 bears to the number of
5 full calendar months in the taxpayer's entire holding
6 period for the property.

7 (C) The Department shall prescribe such
8 regulations as may be necessary to carry out the
9 purposes of this paragraph.

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

13 (h) Legislative intention. Except as expressly provided by
14 this Section there shall be no modifications or limitations on
15 the amounts of income, gain, loss or deduction taken into
16 account in determining gross income, adjusted gross income or
17 taxable income for federal income tax purposes for the taxable
18 year, or in the amount of such items entering into the
19 computation of base income and net income under this Act for
20 such taxable year, whether in respect of property values as of
21 August 1, 1969 or otherwise.

22 (Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06;
23 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff.
24 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331,

1 eff. 8-21-07; 95-707, eff. 1-11-08.)

2 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

3 Sec. 204. Standard Exemption.

4 (a) Allowance of exemption. In computing net income under
5 this Act, there shall be allowed as an exemption the sum of the
6 amounts determined under subsections (b), (c) and (d),
7 multiplied by a fraction the numerator of which is the amount
8 of the taxpayer's base income allocable to this State for the
9 taxable year and the denominator of which is the taxpayer's
10 total base income for the taxable year.

11 (b) Basic amount. For the purpose of subsection (a) of this
12 Section, except as provided by subsection (a) of Section 205
13 and in this subsection, each taxpayer shall be allowed a basic
14 amount of \$1000, except that for corporations the basic amount
15 shall be zero for tax years ending on or after December 31,
16 2003, and for individuals the basic amount shall be:

17 (1) for taxable years ending on or after December 31,
18 1998 and prior to December 31, 1999, \$1,300;

19 (2) for taxable years ending on or after December 31,
20 1999 and prior to December 31, 2000, \$1,650;

21 (3) for taxable years ending on or after December 31,
22 2000, \$2,000.

23 For taxable years ending on or after December 31, 1992, a
24 taxpayer whose Illinois base income exceeds the basic amount
25 and who is claimed as a dependent on another person's tax

1 return under the Internal Revenue Code ~~of 1986~~ shall not be
2 allowed any basic amount under this subsection.

3 (c) Additional amount for individuals. In the case of an
4 individual taxpayer, there shall be allowed for the purpose of
5 subsection (a), in addition to the basic amount provided by
6 subsection (b), an additional exemption equal to the basic
7 amount for each exemption in excess of one allowable to such
8 individual taxpayer for the taxable year under Section 151 of
9 the Internal Revenue Code.

10 (d) Additional exemptions for an individual taxpayer and
11 his or her spouse. In the case of an individual taxpayer and
12 his or her spouse, he or she shall each be allowed additional
13 exemptions as follows:

14 (1) Additional exemption for taxpayer or spouse 65
15 years of age or older.

16 (A) For taxpayer. An additional exemption of
17 \$1,000 for the taxpayer if he or she has attained the
18 age of 65 before the end of the taxable year.

19 (B) For spouse when a joint return is not filed. An
20 additional exemption of \$1,000 for the spouse of the
21 taxpayer if a joint return is not made by the taxpayer
22 and his spouse, and if the spouse has attained the age
23 of 65 before the end of such taxable year, and, for the
24 calendar year in which the taxable year of the taxpayer
25 begins, has no gross income and is not the dependent of
26 another taxpayer.

1 (2) Additional exemption for blindness of taxpayer or
2 spouse.

3 (A) For taxpayer. An additional exemption of
4 \$1,000 for the taxpayer if he or she is blind at the
5 end of the taxable year.

6 (B) For spouse when a joint return is not filed. An
7 additional exemption of \$1,000 for the spouse of the
8 taxpayer if a separate return is made by the taxpayer,
9 and if the spouse is blind and, for the calendar year
10 in which the taxable year of the taxpayer begins, has
11 no gross income and is not the dependent of another
12 taxpayer. For purposes of this paragraph, the
13 determination of whether the spouse is blind shall be
14 made as of the end of the taxable year of the taxpayer;
15 except that if the spouse dies during such taxable year
16 such determination shall be made as of the time of such
17 death.

18 (C) Blindness defined. For purposes of this
19 subsection, an individual is blind only if his or her
20 central visual acuity does not exceed 20/200 in the
21 better eye with correcting lenses, or if his or her
22 visual acuity is greater than 20/200 but is accompanied
23 by a limitation in the fields of vision such that the
24 widest diameter of the visual fields subtends an angle
25 no greater than 20 degrees.

26 (e) Cross reference. See Article 3 for the manner of

1 determining base income allocable to this State.

2 (f) Application of Section 250. Section 250 does not apply
3 to the amendments to this Section made by Public Act 90-613.

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

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

6 Sec. 205. Exempt organizations.

7 (a) Charitable, etc. organizations. The base income of an
8 organization which is exempt from the federal income tax by
9 reason ~~of Section 501(a)~~ of the Internal Revenue Code shall not
10 be determined under section 203 of this Act, but shall be its
11 unrelated business taxable income as determined under section
12 512 of the Internal Revenue Code, without any deduction for the
13 tax imposed by this Act. The standard exemption provided by
14 section 204 of this Act shall not be allowed in determining the
15 net income of an organization to which this subsection applies.

16 (b) Partnerships. A partnership as such shall not be
17 subject to the tax imposed by subsection 201 (a) and (b) of
18 this Act, but shall be subject to the replacement tax imposed
19 by subsection 201 (c) and (d) of this Act and shall compute its
20 base income as described in subsection (d) of Section 203 of
21 this Act. For taxable years ending on or after December 31,
22 2004, an investment partnership, as defined in Section
23 1501(a)(11.5) of this Act, shall not be subject to the tax
24 imposed by subsections (c) and (d) of Section 201 of this Act.
25 A partnership shall file such returns and other information at

1 such time and in such manner as may be required under Article 5
2 of this Act. The partners in a partnership shall be liable for
3 the replacement tax imposed by subsection 201 (c) and (d) of
4 this Act on such partnership, to the extent such tax is not
5 paid by the partnership, as provided under the laws of Illinois
6 governing the liability of partners for the obligations of a
7 partnership. Persons carrying on business as partners shall be
8 liable for the tax imposed by subsection 201 (a) and (b) of
9 this Act only in their separate or individual capacities.

10 (c) Subchapter S corporations. A Subchapter S corporation
11 shall not be subject to the tax imposed by subsection 201 (a)
12 and (b) of this Act but shall be subject to the replacement tax
13 imposed by subsection 201 (c) and (d) of this Act and shall
14 file such returns and other information at such time and in
15 such manner as may be required under Article 5 of this Act.

16 (d) Combat zone, terrorist attack, and certain other deaths
17 ~~death~~. An individual relieved from the federal income tax for
18 any taxable year by reason of section 692 of the Internal
19 Revenue Code shall not be subject to the tax imposed by this
20 Act for such taxable year.

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

26 (f) Certain business activities. A person not otherwise

1 subject to the tax imposed by this Act shall not become subject
2 to the tax imposed by this Act by reason of:

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

6 (2) activities of the person's employees or agents
7 located solely at the premises of a printer and related to
8 quality control, distribution, or printing services
9 performed by a printer in the State with which the person
10 has contracted for printing.

11 (g) A nonprofit risk organization that holds a certificate
12 of authority under Article VIID of the Illinois Insurance Code
13 is exempt from the tax imposed under this Act with respect to
14 its activities or operations in furtherance of the powers
15 conferred upon it under that Article VIID of the Illinois
16 Insurance Code.

17 (Source: P.A. 95-233, eff. 8-16-07; 95-331, eff. 8-21-07.)

18 (35 ILCS 5/214)

19 Sec. 214. Tax credit for affordable housing donations.

20 (a) Beginning with taxable years ending on or after
21 December 31, 2001 and until the taxable year ending on December
22 31, 2011, a taxpayer who makes a donation under Section 7.28 of
23 the Illinois Housing Development Act is entitled to a credit
24 against the tax imposed by subsections (a) and (b) of Section
25 201 in an amount equal to 50% of the value of the donation.

1 Partners, shareholders of subchapter S corporations, and
2 owners of limited liability companies (if the limited liability
3 company is treated as a partnership for purposes of federal and
4 State income taxation) are entitled to a credit under this
5 Section to be determined in accordance with the determination
6 of income and distributive share of income under Sections 702
7 and 703 and subchapter S of the Internal Revenue Code. Persons
8 or entities not subject to the tax imposed by subsections (a)
9 and (b) of Section 201 and who make a donation under Section
10 7.28 of the Illinois Housing Development Act are entitled to a
11 credit as described in this subsection and may transfer that
12 credit as described in subsection (c).

13 (b) If the amount of the credit exceeds the tax liability
14 for the year, the excess may be carried forward and applied to
15 the tax liability of the 5 taxable years following the excess
16 credit year. The tax credit shall be applied to the earliest
17 year for which there is a tax liability. If there are credits
18 for more than one year that are available to offset a
19 liability, the earlier credit shall be applied first.

20 (c) The transfer of the tax credit allowed under this
21 Section may be made (i) to the purchaser of land that has been
22 designated solely for affordable housing projects in
23 accordance with the Illinois Housing Development Act or (ii) to
24 another donor who has also made a donation in accordance with
25 Section 7.28 of the Illinois Housing Development Act.

26 (d) A taxpayer claiming the credit provided by this Section

1 must maintain and record any information that the Department
2 may require by regulation regarding the project for which the
3 credit is claimed. When claiming the credit provided by this
4 Section, the taxpayer must provide information regarding the
5 taxpayer's donation to the project under the Illinois Housing
6 Development Act.

7 (Source: P.A. 93-369, eff. 7-24-03; 94-46, eff. 6-17-05.)

8 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

1 income from this State and one or more other states shall
2 compute their apportionment factor by weighting their
3 property, payroll, and sales factors as provided in subsection
4 (h) of this Section.

5 (1) Property factor.

6 (A) The property factor is a fraction, the numerator of
7 which is the average value of the person's real and
8 tangible personal property owned or rented and used in the
9 trade or business in this State during the taxable year and
10 the denominator of which is the average value of all the
11 person's real and tangible personal property owned or
12 rented and used in the trade or business during the taxable
13 year.

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

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

25 (2) Payroll factor.

26 (A) The payroll factor is a fraction, the numerator of

1 which is the total amount paid in this State during the
2 taxable year by the person for compensation, and the
3 denominator of which is the total compensation paid
4 everywhere during the taxable year.

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

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

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

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

20 (iv) Compensation paid to nonresident professional
21 athletes.

22 (a) General. The Illinois source income of a
23 nonresident individual who is a member of a
24 professional athletic team includes the portion of the
25 individual's total compensation for services performed
26 as a member of a professional athletic team during the

1 taxable year which the number of duty days spent within
2 this State performing services for the team in any
3 manner during the taxable year bears to the total
4 number of duty days spent both within and without this
5 State during the taxable year.

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

12 (c) Definitions. For purposes of this subpart
13 (iv):

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

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

26 (3) Except as provided in items (C) and (D) of

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

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

22 (B) Also included in duty days are game
23 days, practice days, days spent at team
24 meetings, promotional caravans, preseason
25 training camps, and days served with the team
26 through all post-season games in which the team

1 competes or is scheduled to compete.

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

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

23 (E) Days for which a member of a
24 professional athletic team is on the disabled
25 list and does not conduct rehabilitation
26 activities at facilities of the team, and is

1 not otherwise performing services for the team
2 in Illinois, shall not be considered duty days
3 spent in this State. All days on the disabled
4 list, however, are considered to be included in
5 total duty days spent both within and without
6 this State.

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

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

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

19 This compensation shall include, but is not
20 limited to, salaries, wages, bonuses as described
21 in this subpart, and any other type of compensation
22 paid during the taxable year to a member of a
23 professional athletic team for services performed
24 in that year. This compensation does not include
25 strike benefits, severance pay, termination pay,
26 contract or option year buy-out payments,

1 expansion or relocation payments, or any other
2 payments not related to services performed for the
3 team.

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

21 (3) Sales factor.

22 (A) The sales factor is a fraction, the numerator of
23 which is the total sales of the person in this State during
24 the taxable year, and the denominator of which is the total
25 sales of the person everywhere during the taxable year.

26 (B) Sales of tangible personal property are in this

1 State if:

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

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

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

24 (i) Gross receipts from the licensing, sale, or
25 other disposition of a patent, copyright, trademark,
26 or similar item of intangible personal property are in

1 this State to the extent the item is utilized in this
2 State during the year the gross receipts are included
3 in gross income.

4 (ii) Place of utilization.

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

19 (II) A copyright is utilized in a state to the
20 extent that printing or other publication
21 originates in the state. If a copyright is utilized
22 in more than one state, the extent to which it is
23 utilized in any one state shall be a fraction equal
24 to the gross receipts from sales or licenses of
25 materials printed or published in that state
26 divided by the total of such gross receipts for all

1 states in which the copyright is utilized.

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

6 (iii) If the state of utilization of an item of
7 property governed by this paragraph (B-1) cannot be
8 determined from the taxpayer's books and records or
9 from the books and records of any person related to the
10 taxpayer within the meaning of Section 267(b) of the
11 Internal Revenue Code, 26 U.S.C. 267, the gross
12 receipts attributable to that item shall be excluded
13 from both the numerator and the denominator of the
14 sales factor.

15 (B-2) Gross receipts from the license, sale, or other
16 disposition of patents, copyrights, trademarks, and
17 similar items of intangible personal property may be
18 included in the numerator or denominator of the sales
19 factor only if gross receipts from licenses, sales, or
20 other disposition of such items comprise more than 50% of
21 the taxpayer's total gross receipts included in gross
22 income during the tax year and during each of the 2
23 immediately preceding tax years; provided that, when a
24 taxpayer is a member of a unitary business group, such
25 determination shall be made on the basis of the gross
26 receipts of the entire unitary business group.

1 (B-5) For taxable years ending on or after December 31,
2 2008, except as provided in subsections (ii) through (vii),
3 receipts from the sale of telecommunications service or
4 mobile telecommunications service are in this State if the
5 customer's service address is in this State.

6 (i) For purposes of this subparagraph (B-5), the
7 following ~~follow~~ terms have the following meanings:

8 "Ancillary services" means services that are
9 associated with or incidental to the provision of
10 "telecommunications services", including but not
11 limited to "detailed telecommunications billing",
12 "directory assistance", "vertical service", and "voice
13 mail services".

14 "Air-to-Ground Radiotelephone service" means a
15 radio service, as that term is defined in 47 CFR 22.99,
16 in which common carriers are authorized to offer and
17 provide radio telecommunications service for hire to
18 subscribers in aircraft.

19 "Call-by-call Basis" means any method of charging
20 for telecommunications services where the price is
21 measured by individual calls.

22 "Communications Channel" means a physical or
23 virtual path of communications over which signals are
24 transmitted between or among customer channel
25 termination points.

26 "Conference bridging service" means an "ancillary

1 service" that links two or more participants of an
2 audio or video conference call and may include the
3 provision of a telephone number. "Conference bridging
4 service" does not include the "telecommunications
5 services" used to reach the conference bridge.

6 "Customer Channel Termination Point" means the
7 location where the customer either inputs or receives
8 the communications.

9 "Detailed telecommunications billing service"
10 means an "ancillary service" of separately stating
11 information pertaining to individual calls on a
12 customer's billing statement.

13 "Directory assistance" means an "ancillary
14 service" of providing telephone number information,
15 and/or address information.

16 "Home service provider" means the facilities based
17 carrier or reseller with which the customer contracts
18 for the provision of mobile telecommunications
19 services.

20 "Mobile telecommunications service" means
21 commercial mobile radio service, as defined in Section
22 20.3 of Title 47 of the Code of Federal Regulations as
23 in effect on June 1, 1999.

24 "Place of primary use" means the street address
25 representative of where the customer's use of the
26 telecommunications service primarily occurs, which

1 must be the residential street address or the primary
2 business street address of the customer. In the case of
3 mobile telecommunications services, "place of primary
4 use" must be within the licensed service area of the
5 home service provider.

6 "Post-paid telecommunication service" means the
7 telecommunications service obtained by making a
8 payment on a call-by-call basis either through the use
9 of a credit card or payment mechanism such as a bank
10 card, travel card, credit card, or debit card, or by
11 charge made to a telephone number which is not
12 associated with the origination or termination of the
13 telecommunications service. A post-paid calling
14 service includes telecommunications service, except a
15 prepaid wireless calling service, that would be a
16 prepaid calling service except it is not exclusively a
17 telecommunication service.

18 "Prepaid telecommunication service" means the
19 right to access exclusively telecommunications
20 services, which must be paid for in advance and which
21 enables the origination of calls using an access number
22 or authorization code, whether manually or
23 electronically dialed, and that is sold in
24 predetermined units or dollars of which the number
25 declines with use in a known amount.

26 "Prepaid Mobile telecommunication service" means a

1 telecommunications service that provides the right to
2 utilize mobile wireless service as well as other
3 non-telecommunication services, including but not
4 limited to ancillary services, which must be paid for
5 in advance that is sold in predetermined units or
6 dollars of which the number declines with use in a
7 known amount.

8 "Private communication service" means a
9 telecommunication service that entitles the customer
10 to exclusive or priority use of a communications
11 channel or group of channels between or among
12 termination points, regardless of the manner in which
13 such channel or channels are connected, and includes
14 switching capacity, extension lines, stations, and any
15 other associated services that are provided in
16 connection with the use of such channel or channels.

17 "Service address" means:

18 (a) The location of the telecommunications
19 equipment to which a customer's call is charged and
20 from which the call originates or terminates,
21 regardless of where the call is billed or paid;

22 (b) If the location in line (a) is not known,
23 service address means the origination point of the
24 signal of the telecommunications services first
25 identified by either the seller's
26 telecommunications system or in information

1 received by the seller from its service provider
2 where the system used to transport such signals is
3 not that of the seller; and

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

7 "Telecommunications service" means the electronic
8 transmission, conveyance, or routing of voice, data,
9 audio, video, or any other information or signals to a
10 point, or between or among points. The term
11 "telecommunications service" includes such
12 transmission, conveyance, or routing in which computer
13 processing applications are used to act on the form,
14 code or protocol of the content for purposes of
15 transmission, conveyance or routing without regard to
16 whether such service is referred to as voice over
17 Internet protocol services or is classified by the
18 Federal Communications Commission as enhanced or value
19 added. "Telecommunications service" does not include:

20 (a) Data processing and information services
21 that allow data to be generated, acquired, stored,
22 processed, or retrieved and delivered by an
23 electronic transmission to a purchaser when such
24 purchaser's primary purpose for the underlying
25 transaction is the processed data or information;

26 (b) Installation or maintenance of wiring or

1 equipment on a customer's premises;

2 (c) Tangible personal property;

3 (d) Advertising, including but not limited to
4 directory advertising.

5 (e) Billing and collection services provided
6 to third parties;

7 (f) Internet access service;

8 (g) Radio and television audio and video
9 programming services, regardless of the medium,
10 including the furnishing of transmission,
11 conveyance and routing of such services by the
12 programming service provider. Radio and television
13 audio and video programming services shall include
14 but not be limited to cable service as defined in
15 47 USC 522(6) and audio and video programming
16 services delivered by commercial mobile radio
17 service providers, as defined in 47 CFR 20.3;

18 (h) "Ancillary services"; or

19 (i) Digital products "delivered
20 electronically", including but not limited to
21 software, music, video, reading materials or ring
22 tones.

23 "Vertical service" means an "ancillary service"
24 that is offered in connection with one or more
25 "telecommunications services", which offers advanced
26 calling features that allow customers to identify

1 callers and to manage multiple calls and call
2 connections, including "conference bridging services".

3 "Voice mail service" means an "ancillary service"
4 that enables the customer to store, send or receive
5 recorded messages. "Voice mail service" does not
6 include any "vertical services" that the customer may
7 be required to have in order to utilize the "voice mail
8 service".

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

12 (a) The call both originates and terminates in
13 this State.

14 (b) The call either originates or terminates
15 in this State and the service address is located in
16 this State.

17 (iii) Receipts from the sale of postpaid
18 telecommunications service at retail are in this State
19 if the origination point of the telecommunication
20 signal, as first identified by the service provider's
21 telecommunication system or as identified by
22 information received by the seller from its service
23 provider if the system used to transport
24 telecommunication signals is not the seller's, is
25 located in this State.

26 (iv) Receipts from the sale of prepaid

1 telecommunications service or prepaid mobile
2 telecommunications service at retail are in this State
3 if the purchaser obtains the prepaid card or similar
4 means of conveyance at a location in this State.
5 Receipts from recharging a prepaid telecommunications
6 service or mobile telecommunications service is in
7 this State if the purchaser's billing information
8 indicates a location in this State.

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

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

13 (b) 100% of receipts from charges for the total
14 channel mileage between each channel termination
15 point in this State.

16 (c) 50% of the total receipts from charges for
17 service segments when those segments are between 2
18 customer channel termination points, 1 of which is
19 located in this State and the other is located
20 outside of this State, which segments are
21 separately charged.

22 (d) The receipts from charges for service
23 segments with a channel termination point located
24 in this State and in two or more other states, and
25 which segments are not separately billed, are in
26 this State based on a percentage determined by

1 dividing the number of customer channel
2 termination points in this State by the total
3 number of customer channel termination points.

4 (vi) Receipts from charges for ancillary services
5 for telecommunications service sold to customers at
6 retail are in this State if the customer's primary
7 place of use of telecommunications services associated
8 with those ancillary services is in this State. If the
9 seller of those ancillary services cannot determine
10 where the associated telecommunications are located,
11 then the ancillary services shall be based on the
12 location of the purchaser.

13 (vii) Receipts to access a carrier's network or
14 from the sale of telecommunication services or
15 ancillary services for resale are in this State as
16 follows:

17 (a) 100% of the receipts from access fees
18 attributable to intrastate telecommunications
19 service that both originates and terminates in
20 this State.

21 (b) 50% of the receipts from access fees
22 attributable to interstate telecommunications
23 service if the interstate call either originates
24 or terminates in this State.

25 (c) 100% of the receipts from interstate end
26 user access line charges, if the customer's

1 service address is in this State. As used in this
2 subdivision, "interstate end user access line
3 charges" includes, but is not limited to, the
4 surcharge approved by the federal communications
5 commission and levied pursuant to 47 CFR 69.

6 (d) Gross receipts from sales of
7 telecommunication services or from ancillary
8 services for telecommunications services sold to
9 other telecommunication service providers for
10 resale shall be sourced to this State using the
11 apportionment concepts used for non-resale
12 receipts of telecommunications services if the
13 information is readily available to make that
14 determination. If the information is not readily
15 available, then the taxpayer may use any other
16 reasonable and consistent method.

17 (C) For taxable years ending before December 31, 2008,
18 sales, other than sales governed by paragraphs (B), (B-1),
19 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), (B-2), and (B-5), are in this State if any of the
4 following criteria are met:

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

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

17 (iii) In the case of interest, net gains (but not
18 less than zero) and other items of income from
19 intangible personal property, the sale is in this State
20 if:

21 (a) in the case of a taxpayer who is a dealer
22 in the item of intangible personal property within
23 the meaning of Section 475 of the Internal Revenue
24 Code, the income or gain is received from a
25 customer in this State. For purposes of this
26 subparagraph, a customer is in this State if the

1 customer is an individual, trust or estate who is a
2 resident of this State and, for all other
3 customers, if the customer's commercial domicile
4 is in this State. Unless the dealer has actual
5 knowledge of the residence or commercial domicile
6 of a customer during a taxable year, the customer
7 shall be deemed to be a customer in this State if
8 the billing address of the customer, as shown in
9 the records of the dealer, is in this State; or

10 (b) in all other cases, if the
11 income-producing activity of the taxpayer is
12 performed in this State or, if the
13 income-producing activity of the taxpayer is
14 performed both within and without this State, if a
15 greater proportion of the income-producing
16 activity of the taxpayer is performed within this
17 State than in any other state, based on performance
18 costs.

19 (iv) Sales of services are in this State if the
20 services are received in this State. For the purposes
21 of this section, gross receipts from the performance of
22 services provided to a corporation, partnership, or
23 trust may only be attributed to a state where that
24 corporation, partnership, or trust has a fixed place of
25 business. If the state where the services are received
26 is not readily determinable or is a state where the

1 corporation, partnership, or trust receiving the
2 service does not have a fixed place of business, the
3 services shall be deemed to be received at the location
4 of the office of the customer from which the services
5 were ordered in the regular course of the customer's
6 trade or business. If the ordering office cannot be
7 determined, the services shall be deemed to be received
8 at the office of the customer to which the services are
9 billed. If the taxpayer is not taxable in the state in
10 which the services are received, the sale must be
11 excluded from both the numerator and the denominator of
12 the sales factor. The Department shall adopt rules
13 prescribing where specific types of service are
14 received, including, but not limited to, broadcast,
15 cable, advertising, publishing, and utility service.

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

25 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
26 ending on or after December 31, 1999, provided that a

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

16 (b) Insurance companies.

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

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

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

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

6 (c) Financial organizations.

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

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

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

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

25 (D) Interest charged to customers at places of
26 business maintained within this State for carrying

1 debit balances of margin accounts, without deduction
2 of any costs incurred in carrying such accounts; and

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

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

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

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

24 (i) The numerator shall be:

25 The average aggregate, determined on a
26 quarterly basis, of the financial organization's

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

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

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

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

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

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

1 this State's marketplace and the denominator of which is
2 its gross receipts everywhere during the taxable year.
3 "Gross receipts" for purposes of this subparagraph (3)
4 means gross income, including net taxable gain on
5 disposition of assets, including securities and money
6 market instruments, when derived from transactions and
7 activities in the regular course of the financial
8 organization's trade or business. The following examples
9 are illustrative:

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

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

24 (iii) Interest income, commissions, fees, gains on
25 disposition, and other receipts from consumer loans
26 that are not secured by real or tangible personal

1 property are from sources in this State if the debtor
2 is a resident of this State.

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

16 (v) Interest income, fees, gains on disposition,
17 service charges, merchant discount income, and other
18 receipts from credit card receivables are from sources
19 in this State if the card charges are regularly billed
20 to a customer in this State.

21 (vi) Receipts from the performance of services,
22 including, but not limited to, fiduciary, advisory,
23 and brokerage services, are in this State if the
24 services are received in this State within the meaning
25 of subparagraph (a) (3) (C-5) (iv) of this Section.

26 (vii) Receipts from the issuance of travelers

1 checks and money orders are from sources in this State
2 if the checks and money orders are issued from a
3 location within this State.

4 (viii) Receipts from investment assets and
5 activities and trading assets and activities are
6 included in the receipts factor as follows:

7 (1) Interest, dividends, net gains (but not
8 less than zero) and other income from investment
9 assets and activities from trading assets and
10 activities shall be included in the receipts
11 factor. Investment assets and activities and
12 trading assets and activities include but are not
13 limited to: investment securities; trading account
14 assets; federal funds; securities purchased and
15 sold under agreements to resell or repurchase;
16 options; futures contracts; forward contracts;
17 notional principal contracts such as swaps;
18 equities; and foreign currency transactions. With
19 respect to the investment and trading assets and
20 activities described in subparagraphs (A) and (B)
21 of this paragraph, the receipts factor shall
22 include the amounts described in such
23 subparagraphs.

24 (A) The receipts factor shall include the
25 amount by which interest from federal funds
26 sold and securities purchased under resale

1 agreements exceeds interest expense on federal
2 funds purchased and securities sold under
3 repurchase agreements.

4 (B) The receipts factor shall include the
5 amount by which interest, dividends, gains and
6 other income from trading assets and
7 activities, including but not limited to
8 assets and activities in the matched book, in
9 the arbitrage book, and foreign currency
10 transactions, exceed amounts paid in lieu of
11 interest, amounts paid in lieu of dividends,
12 and losses from such assets and activities.

13 (2) The numerator of the receipts factor
14 includes interest, dividends, net gains (but not
15 less than zero), and other income from investment
16 assets and activities and from trading assets and
17 activities described in paragraph (1) of this
18 subsection that are attributable to this State.

19 (A) The amount of interest, dividends, net
20 gains (but not less than zero), and other
21 income from investment assets and activities
22 in the investment account to be attributed to
23 this State and included in the numerator is
24 determined by multiplying all such income from
25 such assets and activities by a fraction, the
26 numerator of which is the gross income from

1 such assets and activities which are properly
2 assigned to a fixed place of business of the
3 taxpayer within this State and the denominator
4 of which is the gross income from all such
5 assets and activities.

6 (B) The amount of interest from federal
7 funds sold and purchased and from securities
8 purchased under resale agreements and
9 securities sold under repurchase agreements
10 attributable to this State and included in the
11 numerator is determined by multiplying the
12 amount described in subparagraph (A) of
13 paragraph (1) of this subsection from such
14 funds and such securities by a fraction, the
15 numerator of which is the gross income from
16 such funds and such securities which are
17 properly assigned to a fixed place of business
18 of the taxpayer within this State and the
19 denominator of which is the gross income from
20 all such funds and such securities.

21 (C) The amount of interest, dividends,
22 gains, and other income from trading assets and
23 activities, including but not limited to
24 assets and activities in the matched book, in
25 the arbitrage book and foreign currency
26 transactions (but excluding amounts described

1 in subparagraphs (A) or (B) of this paragraph),
2 attributable to this State and included in the
3 numerator is determined by multiplying the
4 amount described in subparagraph (B) of
5 paragraph (1) of this subsection by a fraction,
6 the numerator of which is the gross income from
7 such trading assets and activities which are
8 properly assigned to a fixed place of business
9 of the taxpayer within this State and the
10 denominator of which is the gross income from
11 all such assets and activities.

12 (D) Properly assigned, for purposes of
13 this paragraph (2) of this subsection, means
14 the investment or trading asset or activity is
15 assigned to the fixed place of business with
16 which it has a preponderance of substantive
17 contacts. An investment or trading asset or
18 activity assigned by the taxpayer to a fixed
19 place of business without the State shall be
20 presumed to have been properly assigned if:

21 (i) the taxpayer has assigned, in the
22 regular course of its business, such asset
23 or activity on its records to a fixed place
24 of business consistent with federal or
25 state regulatory requirements;

26 (ii) such assignment on its records is

1 based upon substantive contacts of the
2 asset or activity to such fixed place of
3 business; and

4 (iii) the taxpayer uses such records
5 reflecting assignment of such assets or
6 activities for the filing of all state and
7 local tax returns for which an assignment
8 of such assets or activities to a fixed
9 place of business is required.

10 (E) The presumption of proper assignment
11 of an investment or trading asset or activity
12 provided in subparagraph (D) of paragraph (2)
13 of this subsection may be rebutted upon a
14 showing by the Department, supported by a
15 preponderance of the evidence, that the
16 preponderance of substantive contacts
17 regarding such asset or activity did not occur
18 at the fixed place of business to which it was
19 assigned on the taxpayer's records. If the
20 fixed place of business that has a
21 preponderance of substantive contacts cannot
22 be determined for an investment or trading
23 asset or activity to which the presumption in
24 subparagraph (D) of paragraph (2) of this
25 subsection does not apply or with respect to
26 which that presumption has been rebutted, that

1 asset or activity is properly assigned to the
2 state in which the taxpayer's commercial
3 domicile is located. For purposes of this
4 subparagraph (E), it shall be presumed,
5 subject to rebuttal, that taxpayer's
6 commercial domicile is in the state of the
7 United States or the District of Columbia to
8 which the greatest number of employees are
9 regularly connected with the management of the
10 investment or trading income or out of which
11 they are working, irrespective of where the
12 services of such employees are performed, as of
13 the last day of the taxable year.

14 (4) (Blank).

15 (5) (Blank).

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

20 (1) Such business income (other than that derived from
21 transportation by pipeline) shall be apportioned to this
22 State by multiplying such income by a fraction, the
23 numerator of which is the revenue miles of the person in
24 this State, and the denominator of which is the revenue
25 miles of the person everywhere. For purposes of this
26 paragraph, a revenue mile is the transportation of 1

1 passenger or 1 net ton of freight the distance of 1 mile
2 for a consideration. Where a person is engaged in the
3 transportation of both passengers and freight, the
4 fraction above referred to shall be determined by means of
5 an average of the passenger revenue mile fraction and the
6 freight revenue mile fraction, weighted to reflect the
7 person's

8 (A) relative railway operating income from total
9 passenger and total freight service, as reported to the
10 Interstate Commerce Commission, in the case of
11 transportation by railroad, and

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

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

25 (3) For taxable years ending on or after December 31,
26 2008, business income derived from providing

1 transportation services other than airline services shall
2 be apportioned to this State by using a fraction, (a) the
3 numerator of which shall be (i) all receipts from any
4 movement or shipment of people, goods, mail, oil, gas, or
5 any other substance (other than by airline) that both
6 originates and terminates in this State, plus (ii) that
7 portion of the person's gross receipts from movements or
8 shipments of people, goods, mail, oil, gas, or any other
9 substance (other than by airline) that originates in one
10 state or jurisdiction and terminates in another state or
11 jurisdiction, that is determined by the ratio that the
12 miles traveled in this State bears to total miles
13 everywhere and (b) the denominator of which shall be all
14 revenue derived from the movement or shipment of people,
15 goods, mail, oil, gas, or any other substance (other than
16 by airline). Where a taxpayer is engaged in the
17 transportation of both passengers and freight, the
18 fraction above referred to shall first be determined
19 separately for passenger miles and freight miles. Then an
20 average of the passenger miles fraction and the freight
21 miles fraction shall be weighted to reflect the taxpayer's:

22 (A) relative railway operating income from total
23 passenger and total freight service, as reported to the
24 Surface Transportation Board, in the case of
25 transportation by railroad; and

26 (B) relative gross receipts from passenger and

1 freight transportation, in case of transportation
2 other than by railroad.

3 (4) For taxable years ending on or after December 31,
4 2008, business income derived from furnishing airline
5 transportation services shall be apportioned to this State
6 by multiplying such income by a fraction, the numerator of
7 which is the revenue miles of the person in this State, and
8 the denominator of which is the revenue miles of the person
9 everywhere. For purposes of this paragraph, a revenue mile
10 is the transportation of one passenger or one net ton of
11 freight the distance of one mile for a consideration. If a
12 person is engaged in the transportation of both passengers
13 and freight, the fraction above referred to shall be
14 determined by means of an average of the passenger revenue
15 mile fraction and the freight revenue mile fraction,
16 weighted to reflect the person's relative gross receipts
17 from passenger and freight airline transportation.

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

24 (f) Alternative allocation. If the allocation and
25 apportionment provisions of subsections (a) through (e) and of
26 subsection (h) do not fairly represent the extent of a person's

1 business activity in this State, the person may petition for,
2 or the Director may, without a petition, permit or require, in
3 respect of all or any part of the person's business activity,
4 if reasonable:

5 (1) Separate accounting;

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

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

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

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

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

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

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

26 (3) for tax years ending on or after December 31, 2000,

1 the sales factor.

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

9 (Source: P.A. 94-247, eff. 1-1-06; 95-233, eff. 8-16-07;
10 95-707, eff. 1-11-08.)

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; 95-233, eff. 8-16-07.)

23 (35 ILCS 5/506) (from Ch. 120, par. 5-506)

24 Sec. 506. Federal Returns.

25 (a) In general. Any person required to make a return for a

1 taxable year under this Act may, at any time that a deficiency
2 could be assessed or a refund claimed under this Act in respect
3 of any item reported or properly reportable on such return or
4 any amendment thereof, be required to furnish to the Department
5 a true and correct copy of any return which may pertain to such
6 item and which was filed by such person under the provisions of
7 the Internal Revenue Code.

8 (b) Changes affecting federal income tax. A person shall
9 notify the Department if:

10 (1) the taxable income, any item of income or
11 deduction, the income tax liability, or any tax credit
12 reported in an original or amended a federal income tax
13 return of that person for any year or as determined by the
14 Internal Revenue Service or the courts is altered by
15 amendment of such return or as a result of any other
16 recomputation or redetermination of federal taxable income
17 or loss, and such alteration reflects a change or
18 settlement with respect to any item or items, affecting the
19 computation of such person's net income, net loss, or of
20 any credit provided by Article 2 of this Act for any year
21 under this Act, or in the number of personal exemptions
22 allowable to such person under Section 151 of the Internal
23 Revenue Code, or

24 (2) the amount of tax required to be withheld by that
25 person from compensation paid to employees and required to
26 be reported by that person on a federal return is altered

1 by amendment of the return or by any other recomputation or
2 redetermination that is agreed to or finally determined on
3 or after January 1, 2003, and the alteration affects the
4 amount of compensation subject to withholding by that
5 person under Section 701 of this Act.

6 Such notification shall be in the form of an amended return or
7 such other form as the Department may by regulations prescribe,
8 shall contain the person's name and address and such other
9 information as the Department may by regulations prescribe,
10 shall be signed by such person or his duly authorized
11 representative, and shall be filed not later than 120 days
12 after such alteration has been agreed to or finally determined
13 for federal income tax purposes or any federal income tax
14 deficiency or refund, tentative carryback adjustment,
15 abatement or credit resulting therefrom has been assessed or
16 paid, whichever shall first occur.

17 (Source: P.A. 92-846, eff. 8-23-02.)

18 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

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

20 (a) In general. Every taxpayer required to file a return
21 under this Act shall, without assessment, notice or demand, pay
22 any tax due thereon to the Department, at the place fixed for
23 filing, on or before the date fixed for filing such return
24 (determined without regard to any extension of time for filing
25 the return) pursuant to regulations prescribed by the

1 Department. If, however, the due date for payment of a
2 taxpayer's federal income tax liability for a tax year (as
3 provided in the Internal Revenue Code or by Treasury
4 regulation, or as extended by the Internal Revenue Service) is
5 later than the date fixed for filing the taxpayer's Illinois
6 income tax return for that tax year, the Department may, by
7 rule, prescribe a due date for payment that is not later than
8 the due date for payment of the taxpayer's federal income tax
9 liability. For purposes of the Illinois Administrative
10 Procedure Act, the adoption of rules to prescribe a later due
11 date for payment shall be deemed an emergency and necessary for
12 the public interest, safety, and welfare.

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

16 (1) Withheld tax. Any amount withheld during any
17 calendar year pursuant to Article 7 from compensation paid
18 to a taxpayer shall be deemed to have been paid on account
19 of any tax imposed by subsections 201(a) and (b) of this
20 Act on such taxpayer for his taxable year beginning in such
21 calendar year. If more than one taxable year begins in a
22 calendar year, such amount shall be deemed to have been
23 paid on account of such tax for the last taxable year so
24 beginning.

25 (2) Estimated and tentative tax payments. Any amount of
26 estimated tax paid by a taxpayer pursuant to Article 8 for

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

3 (3) Foreign tax. The aggregate amount of tax which is
4 imposed upon or measured by income and which is paid by a
5 resident for a taxable year to another state or states on
6 income which is also subject to the tax imposed by
7 subsections 201(a) and (b) of this Act shall be credited
8 against the tax imposed by subsections 201(a) and (b)
9 otherwise due under this Act for such taxable year. The
10 aggregate credit provided under this paragraph shall not
11 exceed that amount which bears the same ratio to the tax
12 imposed by subsections 201(a) and (b) otherwise due under
13 this Act as the amount of the taxpayer's base income
14 subject to tax both by such other state or states and by
15 this State bears to his total base income subject to tax by
16 this State for the taxable year. The credit provided by
17 this paragraph shall not be allowed if any creditable tax
18 was deducted in determining base income for the taxable
19 year. Any person claiming such credit shall attach a
20 statement in support thereof and shall notify the Director
21 of any refund or reductions in the amount of tax claimed as
22 a credit hereunder all in such manner and at such time as
23 the Department shall by regulations prescribe.

24 (4) Accumulation and capital gain distributions. If
25 the net income of a taxpayer includes amounts included in
26 his base income by reason of Section 667 ~~668~~ or ~~669~~ of the

1 Internal Revenue Code (relating to accumulation and
2 capital gain distributions by a trust, respectively), the
3 tax imposed on such taxpayer by this Act shall be credited
4 with his pro rata portion of the taxes imposed by this Act
5 on such trust for preceding taxable years which would not
6 have been payable for such preceding years if the trust had
7 in fact made distributions to its beneficiaries at the
8 times and in the amounts specified in Section 667 ~~Sections~~
9 ~~666 and 669~~ of the Internal Revenue Code. The credit
10 provided by this paragraph shall not reduce the tax
11 otherwise due from the taxpayer to an amount less than that
12 which would be due if the amounts included by reason of
13 Section 667 ~~Sections 668 and 669~~ of the Internal Revenue
14 Code were excluded from his or her base income.

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

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

18 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

19 Sec. 701. Requirement and Amount of Withholding.

20 (a) In General. Every employer maintaining an office or
21 transacting business within this State and required under the
22 provisions of the Internal Revenue Code to withhold a tax on:

23 (1) compensation paid in this State (as determined
24 under Section 304(a)(2)(B) to an individual; or

25 (2) payments described in subsection (b) shall deduct

1 and withhold from such compensation for each payroll period
2 (as defined in Section 3401 of the Internal Revenue Code)
3 an amount equal to the amount by which such individual's
4 compensation exceeds the proportionate part of this
5 withholding exemption (computed as provided in Section
6 702) attributable to the payroll period for which such
7 compensation is payable multiplied by a percentage equal to
8 the percentage tax rate for individuals provided in
9 subsection (b) of Section 201.

10 (b) Payment to Residents. Any payment (including
11 compensation) to a resident by a payor maintaining an office or
12 transacting business within this State (including any agency,
13 officer, or employee of this State or of any political
14 subdivision of this State) and on which withholding of tax is
15 required under the provisions of the Internal Revenue Code
16 shall be deemed to be compensation paid in this State by an
17 employer to an employee for the purposes of Article 7 and
18 Section 601(b)(1) to the extent such payment is included in the
19 recipient's base income and not subjected to withholding by
20 another state. Notwithstanding any other provision to the
21 contrary, no amount shall be withheld from unemployment
22 insurance benefit payments made to an individual pursuant to
23 the Unemployment Insurance Act unless the individual has
24 voluntarily elected the withholding pursuant to rules
25 promulgated by the Director of Employment Security.

26 (c) Special Definitions. Withholding shall be considered

1 required under the provisions of the Internal Revenue Code to
2 the extent the Internal Revenue Code either requires
3 withholding or allows for voluntary withholding the payor and
4 recipient have entered into such a voluntary withholding
5 agreement. For the purposes of Article 7 and Section 1002(c)
6 the term "employer" includes any payor who is required to
7 withhold tax pursuant to this Section.

8 (d) Reciprocal Exemption. The Director may enter into an
9 agreement with the taxing authorities of any state which
10 imposes a tax on or measured by income to provide that
11 compensation paid in such state to residents of this State
12 shall be exempt from withholding of such tax; in such case, any
13 compensation paid in this State to residents of such state
14 shall be exempt from withholding. All reciprocal agreements
15 shall be subject to the requirements of Section 2505-575 of the
16 Department of Revenue Law (20 ILCS 2505/2505-575).

17 (e) Notwithstanding subsection (a)(2) of this Section, no
18 withholding is required on payments for which withholding is
19 required under Section 3405 or 3406 of the Internal Revenue
20 Code ~~of 1954~~.

21 (Source: P.A. 92-846, eff. 8-23-02; 93-634, eff. 1-1-04.)

22 (35 ILCS 5/702) (from Ch. 120, par. 7-702)

23 Sec. 702. Amount Exempt from Withholding. For purposes of
24 this Section an employee shall be entitled to a withholding
25 exemption in an amount equal to the basic amount in Section

1 204(b) for each personal or dependent exemption which he is
2 entitled to claim on his federal return pursuant to Section 151
3 of the Internal Revenue Code ~~of 1986~~; plus an allowance equal
4 to \$1,000 for each \$1,000 he is entitled to deduct from gross
5 income in arriving at adjusted gross income pursuant to Section
6 62 of the Internal Revenue Code ~~of 1986~~; plus an additional
7 allowance equal to \$1,000 for each \$1,000 eligible for
8 subtraction on his Illinois income tax return as Illinois real
9 estate taxes paid during the taxable year; or in any lesser
10 amount claimed by him. Every employee shall furnish to his
11 employer such information as is required for the employer to
12 make an accurate withholding under this Act. The employer may
13 rely on this information for withholding purposes. If any
14 employee fails or refuses to furnish such information, the
15 employer shall withhold the full rate of tax from the
16 employee's total compensation.

17 (Source: P.A. 90-613, eff. 7-9-98.)

18 (35 ILCS 5/703) (from Ch. 120, par. 7-703)

19 Sec. 703. Information statement. Every employer required
20 to deduct and withhold tax under this Act from compensation of
21 an employee, or who would have been required so to deduct and
22 withhold tax if the employee's withholding exemption were not
23 in excess of the basic amount in Section 204(b), shall furnish
24 in duplicate to each such employee in respect of the
25 compensation paid by such employer to such employee during the

1 calendar year on or before January 31 of the succeeding year,
2 or, if his employment is terminated before the close of such
3 calendar year, on the date on which the last payment of
4 compensation is made, a written statement in such form as the
5 Department may by regulation prescribe showing the amount of
6 compensation paid by the employer to the employee, the amount
7 deducted and withheld as tax, ~~the tax exempt amount contributed~~
8 ~~to a medical savings account,~~ and such other information as the
9 Department shall prescribe. A copy of such statement shall be
10 filed by the employee with his return for his taxable year to
11 which it relates (as determined under Section 601(b)(1)).

12 (Source: P.A. 91-841, eff. 6-22-00; 92-16, eff. 6-28-01.)

13 (35 ILCS 5/704A)

14 Sec. 704A. Employer's return and payment of tax withheld.

15 (a) In general, every employer who deducts and withholds or
16 is required to deduct and withhold tax under this Act on or
17 after January 1, 2008 shall make those payments and returns as
18 provided in this Section.

19 (b) Returns. Every employer shall, in the form and manner
20 required by the Department, make returns with respect to taxes
21 withheld or required to be withheld under this Article 7 for
22 each quarter beginning on or after January 1, 2008, on or
23 before the last day of the first month following the close of
24 that quarter.

25 (c) Payments. With respect to amounts withheld or required

1 to be withheld on or after January 1, 2008:

2 (1) Semi-weekly payments. For each calendar year, each
3 employer who withheld or was required to withhold more than
4 \$12,000 during the one-year period ending on June 30 of the
5 immediately preceding calendar year, payment must be made:

6 (A) on or before each Friday of the calendar year,
7 for taxes withheld or required to be withheld on the
8 immediately preceding Saturday, Sunday, Monday, or
9 Tuesday;

10 (B) on or before each Wednesday of the calendar
11 year, for taxes withheld or required to be withheld on
12 the immediately preceding Wednesday, Thursday, or
13 Friday.

14 (2) Semi-weekly payments. Any employer who withholds
15 or is required to withhold more than \$12,000 in any quarter
16 of a calendar year is required to make payments on the
17 dates set forth under item (1) of this subsection (c) for
18 each remaining quarter of that calendar year and for the
19 subsequent calendar year.

20 (3) Monthly payments. Each employer, other than an
21 employer described in items (1) or (2) of this subsection,
22 shall pay to the Department, on or before the 15th day of
23 each month the taxes withheld or required to be withheld
24 during the immediately preceding month.

25 (4) Payments with returns. Each employer shall pay to
26 the Department, on or before the due date for each return

1 required to be filed under this Section, any tax withheld
2 or required to be withheld during the period for which the
3 return is due and not previously paid to the Department.

4 (d) Regulatory authority. The Department may, by rule:

5 (1) If the aggregate amounts required to be withheld
6 under this Article 7 do not exceed \$1,000 for the calendar
7 year, permit employers, in lieu of the requirements of
8 subsections (b) and (c), to file annual returns due on or
9 before January 31 of the following year for taxes withheld
10 or required to be withheld during that calendar year and to
11 pay the taxes required to be shown on each such return no
12 later than the due date for such return.

13 (2) Provide that any payment required to be made under
14 subsection (c)(1) or (c)(2) is deemed to be timely to the
15 extent paid by electronic funds transfer on or before the
16 due date for deposit of federal income taxes withheld from,
17 or federal employment taxes due with respect to, the wages
18 from which the Illinois taxes were withheld.

19 (3) Designate one or more depositories to which payment
20 of taxes required to be withheld under this Article 7 must
21 be paid by some or all employers.

22 (4) Increase the threshold dollar amounts at which
23 employers are required to make semi-weekly payments under
24 subsection (c)(1) or (c)(2).

25 (e) Annual return and payment. Every employer who deducts
26 and withholds or is required to deduct and withhold tax from a

1 person engaged in domestic service employment, as that term is
2 defined in Section 3510 of the Internal Revenue Code, may
3 comply with the requirements of this Section with respect to
4 such employees by filing an annual return and paying the taxes
5 required to be deducted and withheld on or before the 15th day
6 of the fourth month following the close of the employer's
7 taxable year. The Department may allow the employer's return to
8 be submitted with the employer's individual income tax return
9 or to be submitted with a return due from the employer under
10 Section 1400.2 of the Unemployment Insurance Act.

11 (f) Magnetic media and electronic filing. Any W-2 Form
12 that, under the Internal Revenue Code and regulations
13 promulgated thereunder, is required to be submitted to the
14 Internal Revenue Service on magnetic media or electronically
15 must also be submitted to the Department on magnetic media or
16 electronically for Illinois purposes, if required by the
17 Department.

18 (g) Interest on late payment. No interest shall accrue on
19 any underpayment to an amount due under this Section prior to
20 the due date (without regard for extensions) of the return on
21 which the underpaid amount was reported or required to be
22 reported.

23 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08.)

24 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

25 Sec. 804. Failure to Pay Estimated Tax.

1 (a) In general. In case of any underpayment of estimated
2 tax by a taxpayer, except as provided in subsection (d) or (e),
3 the taxpayer shall be liable to a penalty in an amount
4 determined at the rate prescribed by Section 3-3 of the Uniform
5 Penalty and Interest Act upon the amount of the underpayment
6 (determined under subsection (b)) for each required
7 installment.

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

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

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

14 (c) Amount of Required Installments.

15 (1) Amount.

16 (A) In General. Except as provided in paragraph

17 (2), the amount of any required installment shall be
18 25% of the required annual payment.

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

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

25 (ii) 100% of the tax shown on the return of the
26 taxpayer for the preceding taxable year if a return

1 showing a liability for tax was filed by the
2 taxpayer for the preceding taxable year and such
3 preceding year was a taxable year of 12 months.

4 (2) Lower Required Installment where Annualized Income
5 Installment is Less Than Amount Determined Under Paragraph
6 (1).

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

11 (i) the amount of such required installment
12 shall be the annualized income installment, and

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

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

25 (i) an amount equal to the applicable
26 percentage of the tax for the taxable year computed

1 by placing on an annualized basis the net income
 2 for months in the taxable year ending before the
 3 due date for the installment, over

4 (ii) the aggregate amount of any prior
 5 required installments for the taxable year.

6 (C) Applicable Percentage.

7 In the case of the following The applicable
 8 required installments: percentage is:

9 1st.....	22.5%
10 2nd.....	45%
11 3rd.....	67.5%
12 4th.....	90%

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

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

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

26 (iii) deducting from such amount the standard

1 exemption allowable for the taxable year, such
2 standard exemption being determined as of the last
3 date prescribed for payment of the installment.

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

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

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

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

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

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

25 (d) Exceptions. Notwithstanding the provisions of the
26 preceding subsections, the penalty imposed by subsection (a)

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

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

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

21 (g) Application of Section in case of tax withheld under
22 Article 7. For purposes of applying this Section:

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

1 unless the taxpayer establishes the dates on which all
2 amounts were actually withheld, in which case the amounts
3 so withheld shall be deemed payments of estimated tax on
4 the dates on which such amounts were 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. 95-233, eff. 8-16-07.)

3 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

4 Sec. 909. Credits and Refunds.

5 (a) In general. In the case of any overpayment, the
6 Department, within the applicable period of limitations for a
7 claim for refund, may credit the amount of such overpayment,
8 including any interest allowed thereon, against any liability
9 in respect of the tax imposed by this Act, regardless of
10 whether other collection remedies are closed to the Department
11 on the part of the person who made the overpayment and shall
12 refund any balance to such person.

13 (b) Credits against estimated tax. The Department may
14 prescribe regulations providing for the crediting against the
15 estimated tax for any taxable year of the amount determined by
16 the taxpayer or the Department to be an overpayment of the tax
17 imposed by this Act for a preceding taxable year.

18 (c) Interest on overpayment. Interest shall be allowed and
19 paid at the rate and in the manner prescribed in Section 3-2 of
20 the Uniform Penalty and Interest Act upon any overpayment in
21 respect of the tax imposed by this Act. For purposes of this
22 subsection, no amount of tax, for any taxable year, shall be
23 treated as having been paid before the date on which the tax
24 return for such year was due under Section 505, without regard
25 to any extension of the time for filing such return.

1 (d) Refund claim. Every claim for refund shall be filed
2 with the Department in writing in such form as the Department
3 may by regulations prescribe, and shall state the specific
4 grounds upon which it is founded.

5 (e) Notice of denial. As soon as practicable after a claim
6 for refund is filed, the Department shall examine it and either
7 issue a notice of refund, abatement or credit to the claimant
8 or issue a notice of denial. If the Department has failed to
9 approve or deny the claim before the expiration of 6 months
10 from the date the claim was filed, the claimant may
11 nevertheless thereafter file with the Department a written
12 protest in such form as the Department may by regulation
13 prescribe. If a protest is filed, the Department shall consider
14 the claim and, if the taxpayer has so requested, shall grant
15 the taxpayer or the taxpayer's authorized representative a
16 hearing within 6 months after the date such request is filed.

17 (f) Effect of denial. A denial of a claim for refund
18 becomes final 60 days after the date of issuance of the notice
19 of such denial except for such amounts denied as to which the
20 claimant has filed a protest with the Department, as provided
21 by Section 910.

22 (g) An overpayment of tax shown on the face of an unsigned
23 return shall be considered forfeited to the State if after
24 notice and demand for signature by the Department the taxpayer
25 fails to provide a signature and 3 years have passed from the
26 date the return was filed. An overpayment of tax refunded to a

1 taxpayer whose return was filed electronically shall be
2 considered an erroneous refund under Section 912 of this Act
3 if, after proper notice and demand by the Department, the
4 taxpayer fails to provide a required signature document. A
5 notice and demand for signature in the case of a return
6 reflecting an overpayment may be made by first class mail. This
7 subsection (g) shall apply to all returns filed pursuant to
8 this Act since 1969.

9 (h) This amendatory Act of 1983 applies to returns and
10 claims for refunds filed with the Department on and after July
11 1, 1983.

12 (Source: P.A. 89-399, eff. 8-20-95.)

13 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

14 Sec. 911. Limitations on Claims for Refund.

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

16 (1) A claim for refund shall be filed not later than 3
17 years after the date the return was filed (in the case of
18 returns required under Article 7 of this Act respecting any
19 amounts withheld as tax, not later than 3 years after the
20 15th day of the 4th month following the close of the
21 calendar year in which such withholding was made), or one
22 year after the date the tax was paid, whichever is the
23 later; and

24 (2) No credit or refund shall be allowed or made with
25 respect to the year for which the claim was filed unless

1 such claim is filed within such period.

2 (b) Federal changes.

3 (1) In general. In any case where notification of an
4 alteration is required by Section 506(b), a claim for
5 refund may be filed within 2 years after the date on which
6 such notification was due (regardless of whether such
7 notice was given), but the amount recoverable pursuant to a
8 claim filed under this Section shall be limited to the
9 amount of any overpayment resulting under this Act from
10 recomputation of the taxpayer's net income, net loss, or
11 Article 2 credits for the taxable year after giving effect
12 to the item or items reflected in the alteration required
13 to be reported.

14 (2) Tentative carryback adjustments paid before
15 January 1, 1974. If, as the result of the payment before
16 January 1, 1974 of a federal tentative carryback
17 adjustment, a notification of an alteration is required
18 under Section 506(b), a claim for refund may be filed at
19 any time before January 1, 1976, but the amount recoverable
20 pursuant to a claim filed under this Section shall be
21 limited to the amount of any overpayment resulting under
22 this Act from recomputation of the taxpayer's base income
23 for the taxable year after giving effect to the federal
24 alteration resulting from the tentative carryback
25 adjustment irrespective of any limitation imposed in
26 paragraph (1) of this subsection.

1 (c) Extension by agreement. Where, before the expiration of
2 the time prescribed in this section for the filing of a claim
3 for refund, both the Department and the claimant shall have
4 consented in writing to its filing after such time, such claim
5 may be filed at any time prior to the expiration of the period
6 agreed upon. The period so agreed upon may be extended by
7 subsequent agreements in writing made before the expiration of
8 the period previously agreed upon. In the case of a taxpayer
9 who is a partnership, Subchapter S corporation, or trust and
10 who enters into an agreement with the Department pursuant to
11 this subsection on or after January 1, 2003, a claim for refund
12 may be filed by ~~issued to~~ the partners, shareholders, or
13 beneficiaries of the taxpayer at any time prior to the
14 expiration of the period agreed upon. Any refund allowed
15 pursuant to the claim, however, shall be limited to the amount
16 of any overpayment of tax due under this Act that results from
17 recomputation of items of income, deduction, credits, or other
18 amounts of the taxpayer that are taken into account by the
19 partner, shareholder, or beneficiary in computing its
20 liability under this Act.

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

22 (1) Limit where claim filed within 3-year period. If
23 the claim was filed by the claimant during the 3-year
24 period prescribed in subsection (a), the amount of the
25 credit or refund shall not exceed the portion of the tax
26 paid within the period, immediately preceding the filing of

1 the claim, equal to 3 years plus the period of any
2 extension of time for filing the return.

3 (2) Limit where claim not filed within 3-year period.
4 If the claim was not filed within such 3-year period, the
5 amount of the credit or refund shall not exceed the portion
6 of the tax paid during the one year immediately preceding
7 the filing of the claim.

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

12 (f) No claim for refund or credit based on the taxpayer's
13 taking a credit for estimated tax payments as provided by
14 Section 601(b) (2) or for any amount paid by a taxpayer pursuant
15 to Section 602(a) or for any amount of credit for tax withheld
16 pursuant to Article 7 may be filed unless a return was filed
17 for the tax year not more than 3 years after the due date, as
18 provided by Section 505, of the return which was required to be
19 filed relative to the taxable year for which the payments were
20 made or for which the tax was withheld. The changes in this
21 subsection (f) made by this amendatory Act of 1987 shall apply
22 to all taxable years ending on or after December 31, 1969.

23 (g) Special Period of Limitation with Respect to Net Loss
24 Carrybacks. If the claim for refund relates to an overpayment
25 attributable to a net loss carryback as provided by Section
26 207, in lieu of the 3 year period of limitation prescribed in

1 subsection (a), the period shall be that period which ends 3
2 years after the time prescribed by law for filing the return
3 (including extensions thereof) for the taxable year of the net
4 loss which results in such carryback (or, on and after August
5 13, 1999, with respect to a change in the carryover of an
6 Article 2 credit to a taxable year resulting from the carryback
7 of a Section 207 loss incurred in a taxable year beginning on
8 or after January 1, 2000, the period shall be that period that
9 ends 3 years after the time prescribed by law for filing the
10 return (including extensions of that time) for that subsequent
11 taxable year), or the period prescribed in subsection (c) in
12 respect of such taxable year, whichever expires later. In the
13 case of such a claim, the amount of the refund may exceed the
14 portion of the tax paid within the period provided in
15 subsection (d) to the extent of the amount of the overpayment
16 attributable to such carryback. On and after August 13, 1999,
17 if the claim for refund relates to an overpayment attributable
18 to the carryover of an Article 2 credit, or of a Section 207
19 loss, earned, incurred (in a taxable year beginning on or after
20 January 1, 2000), or used in a year for which a notification of
21 a change affecting federal taxable income must be filed under
22 subsection (b) of Section 506, the claim may be filed within
23 the period prescribed in paragraph (1) of subsection (b) in
24 respect of the year for which the notification is required. In
25 the case of such a claim, the amount of the refund may exceed
26 the portion of the tax paid within the period provided in

1 subsection (d) to the extent of the amount of the overpayment
2 attributable to the recomputation of the taxpayer's Article 2
3 credits, or Section 207 loss, earned, incurred, or used in the
4 taxable year for which the notification is given.

5 (h) Claim for refund based on net loss. On and after August
6 23, 2002, no claim for refund shall be allowed to the extent
7 the refund is the result of an amount of net loss incurred in
8 any taxable year ending prior to December 31, 2002 under
9 Section 207 of this Act that was not reported to the Department
10 within 3 years of the due date (including extensions) of the
11 return for the loss year on either the original return filed by
12 the taxpayer or on amended return or to the extent that the
13 refund is the result of an amount of net loss incurred in any
14 taxable year under Section 207 for which no return was filed
15 within 3 years of the due date (including extensions) of the
16 return for the loss year.

17 (Source: P.A. 94-836, eff. 6-6-06; 95-233, eff. 8-16-07.)

18 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

19 Sec. 917. Confidentiality and information sharing.

20 (a) Confidentiality. Except as provided in this Section,
21 all information received by the Department from returns filed
22 under this Act, or from any investigation conducted under the
23 provisions of this Act, shall be confidential, except for
24 official purposes within the Department or pursuant to official
25 procedures for collection of any State tax or pursuant to an

1 investigation or audit by the Illinois State Scholarship
2 Commission of a delinquent student loan or monetary award or
3 enforcement of any civil or criminal penalty or sanction
4 imposed by this Act or by another statute imposing a State tax,
5 and any person who divulges any such information in any manner,
6 except for such purposes and pursuant to order of the Director
7 or in accordance with a proper judicial order, shall be guilty
8 of a Class A misdemeanor. However, the provisions of this
9 paragraph are not applicable to information furnished to (i)
10 the Department of Healthcare and Family Services (formerly
11 Department of Public Aid), State's Attorneys, and the Attorney
12 General for child support enforcement purposes and (ii) a
13 licensed attorney representing the taxpayer where an appeal or
14 a protest has been filed on behalf of the taxpayer. If it is
15 necessary to file information obtained pursuant to this Act in
16 a child support enforcement proceeding, the information shall
17 be filed under seal.

18 (b) Public information. Nothing contained in this Act shall
19 prevent the Director from publishing or making available to the
20 public the names and addresses of persons filing returns under
21 this Act, or from publishing or making available reasonable
22 statistics concerning the operation of the tax wherein the
23 contents of returns are grouped into aggregates in such a way
24 that the information contained in any individual return shall
25 not be disclosed.

26 (c) Governmental agencies. The Director may make available

1 to the Secretary of the Treasury of the United States or his
2 delegate, or the proper officer or his delegate of any other
3 state imposing a tax upon or measured by income, for
4 exclusively official purposes, information received by the
5 Department in the administration of this Act, but such
6 permission shall be granted only if the United States or such
7 other state, as the case may be, grants the Department
8 substantially similar privileges. The Director may exchange
9 information with the Department of Healthcare and Family
10 Services and the Department of Human Services (acting as
11 successor to the Department of Public Aid under the Department
12 of Human Services Act) for the purpose of verifying sources and
13 amounts of income and for other purposes directly connected
14 with the administration of this Act and the Illinois Public Aid
15 Code. The Director may exchange information with the Director
16 of the Department of Employment Security for the purpose of
17 verifying sources and amounts of income and for other purposes
18 directly connected with the administration of this Act and Acts
19 administered by the Department of Employment Security. The
20 Director may make available to the Illinois Workers'
21 Compensation Commission information regarding employers for
22 the purpose of verifying the insurance coverage required under
23 the Workers' Compensation Act and Workers' Occupational
24 Diseases Act. The Director may exchange information with the
25 Illinois Department on Aging for the purpose of verifying
26 sources and amounts of income for purposes directly related to

1 confirming eligibility for participation in the programs of
2 benefits authorized by the Senior Citizens and Disabled Persons
3 Property Tax Relief and Pharmaceutical Assistance Act.

4 The Director may make available to any State agency,
5 including the Illinois Supreme Court, which licenses persons to
6 engage in any occupation, information that a person licensed by
7 such agency has failed to file returns under this Act or pay
8 the tax, penalty and interest shown therein, or has failed to
9 pay any final assessment of tax, penalty or interest due under
10 this Act. The Director may make available to any State agency,
11 including the Illinois Supreme Court, information regarding
12 whether a bidder, contractor, or an affiliate of a bidder or
13 contractor has failed to file returns under this Act or pay the
14 tax, penalty, and interest shown therein, or has failed to pay
15 any final assessment of tax, penalty, or interest due under
16 this Act, for the limited purpose of enforcing bidder and
17 contractor certifications. For purposes of this Section, the
18 term "affiliate" means any entity that (1) directly,
19 indirectly, or constructively controls another entity, (2) is
20 directly, indirectly, or constructively controlled by another
21 entity, or (3) is subject to the control of a common entity.
22 For purposes of this subsection (a), an entity controls another
23 entity if it owns, directly or individually, more than 10% of
24 the voting securities of that entity. As used in this
25 subsection (a), the term "voting security" means a security
26 that (1) confers upon the holder the right to vote for the

1 election of members of the board of directors or similar
2 governing body of the business or (2) is convertible into, or
3 entitles the holder to receive upon its exercise, a security
4 that confers such a right to vote. A general partnership
5 interest is a voting security.

6 ~~The Director may make available to any State agency,~~
7 ~~including the Illinois Supreme Court, units of local~~
8 ~~government, and school districts, information regarding~~
9 ~~whether a bidder or contractor is an affiliate of a person who~~
10 ~~is not collecting and remitting Illinois Use taxes, for the~~
11 ~~limited purpose of enforcing bidder and contractor~~
12 ~~certifications.~~

13 The Director may also make available to the Secretary of
14 State information that a corporation which has been issued a
15 certificate of incorporation by the Secretary of State has
16 failed to file returns under this Act or pay the tax, penalty
17 and interest shown therein, or has failed to pay any final
18 assessment of tax, penalty or interest due under this Act. An
19 assessment is final when all proceedings in court for review of
20 such assessment have terminated or the time for the taking
21 thereof has expired without such proceedings being instituted.
22 For taxable years ending on or after December 31, 1987, the
23 Director may make available to the Director or principal
24 officer of any Department of the State of Illinois, information
25 that a person employed by such Department has failed to file
26 returns under this Act or pay the tax, penalty and interest

1 shown therein. For purposes of this paragraph, the word
2 "Department" shall have the same meaning as provided in Section
3 3 of the State Employees Group Insurance Act of 1971.

4 (d) The Director shall make available for public inspection
5 in the Department's principal office and for publication, at
6 cost, administrative decisions issued on or after January 1,
7 1995. These decisions are to be made available in a manner so
8 that the following taxpayer information is not disclosed:

9 (1) The names, addresses, and identification numbers
10 of the taxpayer, related entities, and employees.

11 (2) At the sole discretion of the Director, trade
12 secrets or other confidential information identified as
13 such by the taxpayer, no later than 30 days after receipt
14 of an administrative decision, by such means as the
15 Department shall provide by rule.

16 The Director shall determine the appropriate extent of the
17 deletions allowed in paragraph (2). In the event the taxpayer
18 does not submit deletions, the Director shall make only the
19 deletions specified in paragraph (1).

20 The Director shall make available for public inspection and
21 publication an administrative decision within 180 days after
22 the issuance of the administrative decision. The term
23 "administrative decision" has the same meaning as defined in
24 Section 3-101 of Article III of the Code of Civil Procedure.
25 Costs collected under this Section shall be paid into the Tax
26 Compliance and Administration Fund.

1 (e) Nothing contained in this Act shall prevent the
2 Director from divulging information to any person pursuant to a
3 request or authorization made by the taxpayer, by an authorized
4 representative of the taxpayer, or, in the case of information
5 related to a joint return, by the spouse filing the joint
6 return with the taxpayer.

7 (Source: P.A. 94-1074, eff. 12-26-06; 95-331, eff. 8-21-07.)

8 (35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

9 Sec. 1002. Failure to Pay Tax.

10 (a) Negligence. If any part of a deficiency is due to
11 negligence or intentional disregard of rules and regulations
12 (but without intent to defraud) there shall be added to the tax
13 as a penalty the amount prescribed by Section 3-5 of the
14 Uniform Penalty and Interest Act.

15 (b) Fraud. If any part of a deficiency is due to fraud,
16 there shall be added to the tax as a penalty the amount
17 prescribed by Section 3-6 of the Uniform Penalty and Interest
18 Act.

19 (c) Nonwillful failure to pay withholding tax. If any
20 employer, without intent to evade or defeat any tax imposed by
21 this Act or the payment thereof, shall fail to make a return
22 and pay a tax withheld by him at the time required by or under
23 the provisions of this Act, such employer shall be liable for
24 such taxes and shall pay the same together with the interest
25 and the penalty provided by Sections 3-2 and 3-3, respectively,

1 of the Uniform Penalty and Interest Act and such interest and
2 penalty shall not be charged to or collected from the employee
3 by the employer.

4 (d) Willful failure to collect and pay over tax. Any person
5 required to collect, truthfully account for, and pay over the
6 tax imposed by this Act who willfully fails to collect such tax
7 or truthfully account for and pay over such tax or willfully
8 attempts in any manner to evade or defeat the tax or the
9 payment thereof, shall, in addition to other penalties provided
10 by law, be liable for the penalty imposed by Section 3-7 of the
11 Uniform Penalty and Interest Act.

12 (e) Penalties assessable.

13 (1) In general. Except as otherwise provided in this
14 Act or the Uniform Penalty and Interest Act, the penalties
15 provided by this Act or by the Uniform Penalty and Interest
16 Act shall be paid upon notice and demand and shall be
17 assessed, collected, and paid in the same manner as taxes
18 and any reference in this Act to the tax imposed by this
19 Act shall be deemed also to refer to penalties provided by
20 this Act or by the Uniform Penalty and Interest Act.

21 (2) Procedure for assessing certain penalties. For the
22 purposes of Article 9 any penalty under Section 804(a) or
23 Section 1001 shall be deemed assessed upon the filing of
24 the return for the taxable year.

25 (3) Procedure for assessing the penalty for failure to
26 file withholding returns or annual transmittal forms for

1 wage and tax statements. The penalty imposed by Section
2 1004 will be asserted by the Department's issuance of a
3 notice of deficiency. If taxpayer files a timely protest,
4 the procedures of Section 908 will be followed. If taxpayer
5 does not file a timely protest, the notice of deficiency
6 will constitute an assessment pursuant to subsection (c) of
7 Section 904.

8 (4) Assessment of penalty under Section 1005(a) ~~1005~~
9 ~~(b)~~. The penalty imposed under Section 1005(a) ~~1005(b)~~
10 shall be deemed assessed upon the assessment of the tax to
11 which such penalty relates and shall be collected and paid
12 on notice and demand in the same manner as the tax.

13 (f) Determination of deficiency. For purposes of
14 subsections (a) and (b), the amount shown as the tax by the
15 taxpayer upon his return shall be taken into account in
16 determining the amount of the deficiency only if such return
17 was filed on or before the last day prescribed by law for the
18 filing of such return, including any extensions of the time for
19 such filing.

20 (Source: P.A. 93-840, eff. 7-30-04.)

21 (35 ILCS 5/1101) (from Ch. 120, par. 11-1101)

22 Sec. 1101. Lien for Tax.

23 (a) If any person liable to pay any tax neglects or refuses
24 to pay the same after demand, the amount (including any
25 interest, additional amount, addition to tax, or assessable

1 penalty, together with any costs that may accrue in addition
2 thereto) shall be a lien in favor of the State of Illinois upon
3 all property and rights to property, whether real or personal,
4 belonging to such person.

5 (b) Unless another date is specifically fixed by law, the
6 lien imposed by subsection (a) of this Section shall arise at
7 the time the assessment is made and shall continue until the
8 liability for the amount so assessed (or a judgment against the
9 taxpayer arising out of such liability) is satisfied or becomes
10 unenforceable by reason of lapse of time.

11 (c) Deficiency procedure. If the lien arises from an
12 assessment pursuant to a notice of deficiency, such lien shall
13 not attach and the notice referred to in this section shall not
14 be filed until all proceedings in court for review of such
15 assessment have terminated or the time for the taking thereof
16 has expired without such proceedings being instituted.

17 (d) Notice of lien. The lien created by assessment shall
18 terminate unless a notice of lien is filed, as provided in
19 section 1103 hereof, within 3 years from the date all
20 proceedings in court for the review of such assessment have
21 terminated or the time for the taking thereof has expired
22 without such proceedings being instituted. Where the lien
23 results from the filing of a return without payment of the tax
24 or penalty shown therein to be due, the lien shall terminate
25 unless a notice of lien is filed within 3 years from the date
26 such return was filed with the Department. For the purposes of

1 this subsection (d) ~~(e)~~, a tax return filed before the last day
2 prescribed by law, including any extension thereof, shall be
3 deemed to have been filed on such last day. The time limitation
4 period on the Department's right to file a notice of lien shall
5 not run during any period of time in which the order of any
6 court has the effect of enjoining or restraining the Department
7 from filing such notice of lien.

8 (Source: P.A. 86-905.)

9 (35 ILCS 5/1405.4 rep.)

10 Section 23. The Illinois Income Tax Act is amended by
11 repealing Section 1405.4.

12 Section 25. The Motor Fuel Tax Law is amended by changing
13 Section 1.22 as follows:

14 (35 ILCS 505/1.22)

15 Sec. 1.22. "Jurisdiction" means a state of the United
16 States, the District of Columbia, a state of the United Mexican
17 States, or a province or Territory of Canada.

18 (Source: P.A. 88-480.)

19 Section 30. The Uniform Penalty and Interest Act is amended
20 by changing Section 3-3 as follows:

21 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

1 Sec. 3-3. Penalty for failure to file or pay.

2 (a) This subsection (a) is applicable before January 1,
3 1996. A penalty of 5% of the tax required to be shown due on a
4 return shall be imposed for failure to file the tax return on
5 or before the due date prescribed for filing determined with
6 regard for any extension of time for filing (penalty for late
7 filing or nonfiling). If any unprocessable return is corrected
8 and filed within 21 days after notice by the Department, the
9 late filing or nonfiling penalty shall not apply. If a penalty
10 for late filing or nonfiling is imposed in addition to a
11 penalty for late payment, the total penalty due shall be the
12 sum of the late filing penalty and the applicable late payment
13 penalty. Beginning on the effective date of this amendatory Act
14 of 1995, in the case of any type of tax return required to be
15 filed more frequently than annually, when the failure to file
16 the tax return on or before the date prescribed for filing
17 (including any extensions) is shown to be nonfraudulent and has
18 not occurred in the 2 years immediately preceding the failure
19 to file on the prescribed due date, the penalty imposed by
20 Section 3-3(a) shall be abated.

21 (a-5) This subsection (a-5) is applicable to returns due on
22 and after January 1, 1996 and on or before December 31, 2000. A
23 penalty equal to 2% of the tax required to be shown due on a
24 return, up to a maximum amount of \$250, determined without
25 regard to any part of the tax that is paid on time or by any
26 credit that was properly allowable on the date the return was

1 required to be filed, shall be imposed for failure to file the
2 tax return on or before the due date prescribed for filing
3 determined with regard for any extension of time for filing.
4 However, if any return is not filed within 30 days after notice
5 of nonfiling mailed by the Department to the last known address
6 of the taxpayer contained in Department records, an additional
7 penalty amount shall be imposed equal to the greater of \$250 or
8 2% of the tax shown on the return. However, the additional
9 penalty amount may not exceed \$5,000 and is determined without
10 regard to any part of the tax that is paid on time or by any
11 credit that was properly allowable on the date the return was
12 required to be filed (penalty for late filing or nonfiling). If
13 any unprocessable return is corrected and filed within 30 days
14 after notice by the Department, the late filing or nonfiling
15 penalty shall not apply. If a penalty for late filing or
16 nonfiling is imposed in addition to a penalty for late payment,
17 the total penalty due shall be the sum of the late filing
18 penalty and the applicable late payment penalty. In the case of
19 any type of tax return required to be filed more frequently
20 than annually, when the failure to file the tax return on or
21 before the date prescribed for filing (including any
22 extensions) is shown to be nonfraudulent and has not occurred
23 in the 2 years immediately preceding the failure to file on the
24 prescribed due date, the penalty imposed by Section 3-3(a-5)
25 shall be abated.

26 (a-10) This subsection (a-10) is applicable to returns due

1 on and after January 1, 2001. A penalty equal to 2% of the tax
2 required to be shown due on a return, up to a maximum amount of
3 \$250, reduced by any tax that is paid on time or by any credit
4 that was properly allowable on the date the return was required
5 to be filed, shall be imposed for failure to file the tax
6 return on or before the due date prescribed for filing
7 determined with regard for any extension of time for filing.
8 However, if any return is not filed within 30 days after notice
9 of nonfiling mailed by the Department to the last known address
10 of the taxpayer contained in Department records, an additional
11 penalty amount shall be imposed equal to the greater of \$250 or
12 2% of the tax shown on the return. However, the additional
13 penalty amount may not exceed \$5,000 and is determined without
14 regard to any part of the tax that is paid on time or by any
15 credit that was properly allowable on the date the return was
16 required to be filed (penalty for late filing or nonfiling). If
17 any unprocessable return is corrected and filed within 30 days
18 after notice by the Department, the late filing or nonfiling
19 penalty shall not apply. If a penalty for late filing or
20 nonfiling is imposed in addition to a penalty for late payment,
21 the total penalty due shall be the sum of the late filing
22 penalty and the applicable late payment penalty. In the case of
23 any type of tax return required to be filed more frequently
24 than annually, when the failure to file the tax return on or
25 before the date prescribed for filing (including any
26 extensions) is shown to be nonfraudulent and has not occurred

1 in the 2 years immediately preceding the failure to file on the
2 prescribed due date, the penalty imposed by Section 3-3(a-10)
3 shall be abated.

4 (b) This subsection is applicable before January 1, 1998. A
5 penalty of 15% of the tax shown on the return or the tax
6 required to be shown due on the return shall be imposed for
7 failure to pay:

8 (1) the tax shown due on the return on or before the
9 due date prescribed for payment of that tax, an amount of
10 underpayment of estimated tax, or an amount that is
11 reported in an amended return other than an amended return
12 timely filed as required by subsection (b) of Section 506
13 of the Illinois Income Tax Act (penalty for late payment or
14 nonpayment of admitted liability); or

15 (2) the full amount of any tax required to be shown due
16 on a return and which is not shown (penalty for late
17 payment or nonpayment of additional liability), within 30
18 days after a notice of arithmetic error, notice and demand,
19 or a final assessment is issued by the Department. In the
20 case of a final assessment arising following a protest and
21 hearing, the 30-day period shall not begin until all
22 proceedings in court for review of the final assessment
23 have terminated or the period for obtaining a review has
24 expired without proceedings for a review having been
25 instituted. In the case of a notice of tax liability that
26 becomes a final assessment without a protest and hearing,

1 the penalty provided in this paragraph (2) shall be imposed
2 at the expiration of the period provided for the filing of
3 a protest.

4 (b-5) This subsection is applicable to returns due on and
5 after January 1, 1998 and on or before December 31, 2000. A
6 penalty of 20% of the tax shown on the return or the tax
7 required to be shown due on the return shall be imposed for
8 failure to pay:

9 (1) the tax shown due on the return on or before the
10 due date prescribed for payment of that tax, an amount of
11 underpayment of estimated tax, or an amount that is
12 reported in an amended return other than an amended return
13 timely filed as required by subsection (b) of Section 506
14 of the Illinois Income Tax Act (penalty for late payment or
15 nonpayment of admitted liability); or

16 (2) the full amount of any tax required to be shown due
17 on a return and which is not shown (penalty for late
18 payment or nonpayment of additional liability), within 30
19 days after a notice of arithmetic error, notice and demand,
20 or a final assessment is issued by the Department. In the
21 case of a final assessment arising following a protest and
22 hearing, the 30-day period shall not begin until all
23 proceedings in court for review of the final assessment
24 have terminated or the period for obtaining a review has
25 expired without proceedings for a review having been
26 instituted. In the case of a notice of tax liability that

1 becomes a final assessment without a protest and hearing,
2 the penalty provided in this paragraph (2) shall be imposed
3 at the expiration of the period provided for the filing of
4 a protest.

5 (b-10) This subsection (b-10) is applicable to returns due
6 on and after January 1, 2001 and on or before December 31,
7 2003. A penalty shall be imposed for failure to pay:

8 (1) the tax shown due on a return on or before the due
9 date prescribed for payment of that tax, an amount of
10 underpayment of estimated tax, or an amount that is
11 reported in an amended return other than an amended return
12 timely filed as required by subsection (b) of Section 506
13 of the Illinois Income Tax Act (penalty for late payment or
14 nonpayment of admitted liability). The amount of penalty
15 imposed under this subsection (b-10) (1) shall be 2% of any
16 amount that is paid no later than 30 days after the due
17 date, 5% of any amount that is paid later than 30 days
18 after the due date and not later than 90 days after the due
19 date, 10% of any amount that is paid later than 90 days
20 after the due date and not later than 180 days after the
21 due date, and 15% of any amount that is paid later than 180
22 days after the due date. If notice and demand is made for
23 the payment of any amount of tax due and if the amount due
24 is paid within 30 days after the date of the notice and
25 demand, then the penalty for late payment or nonpayment of
26 admitted liability under this subsection (b-10) (1) on the

1 amount so paid shall not accrue for the period after the
2 date of the notice and demand.

3 (2) the full amount of any tax required to be shown due
4 on a return and that is not shown (penalty for late payment
5 or nonpayment of additional liability), within 30 days
6 after a notice of arithmetic error, notice and demand, or a
7 final assessment is issued by the Department. In the case
8 of a final assessment arising following a protest and
9 hearing, the 30-day period shall not begin until all
10 proceedings in court for review of the final assessment
11 have terminated or the period for obtaining a review has
12 expired without proceedings for a review having been
13 instituted. The amount of penalty imposed under this
14 subsection (b-10) (2) shall be 20% of any amount that is not
15 paid within the 30-day period. In the case of a notice of
16 tax liability that becomes a final assessment without a
17 protest and hearing, the penalty provided in this
18 subsection (b-10) (2) shall be imposed at the expiration of
19 the period provided for the filing of a protest.

20 (b-15) This subsection (b-15) is applicable to returns due
21 on and after January 1, 2004 and on or before December 31,
22 2004. A penalty shall be imposed for failure to pay the tax
23 shown due or required to be shown due on a return on or before
24 the due date prescribed for payment of that tax, an amount of
25 underpayment of estimated tax, or an amount that is reported in
26 an amended return other than an amended return timely filed as

1 required by subsection (b) of Section 506 of the Illinois
2 Income Tax Act (penalty for late payment or nonpayment of
3 admitted liability). The amount of penalty imposed under this
4 subsection (b-15) ~~(b-15)(1)~~ shall be 2% of any amount that is
5 paid no later than 30 days after the due date, 10% of any
6 amount that is paid later than 30 days after the due date and
7 not later than 90 days after the due date, 15% of any amount
8 that is paid later than 90 days after the due date and not
9 later than 180 days after the due date, and 20% of any amount
10 that is paid later than 180 days after the due date. If notice
11 and demand is made for the payment of any amount of tax due and
12 if the amount due is paid within 30 days after the date of this
13 notice and demand, then the penalty for late payment or
14 nonpayment of admitted liability under this subsection (b-15)
15 ~~(b-15)(1)~~ on the amount so paid shall not accrue for the period
16 after the date of the notice and demand.

17 (b-20) This subsection (b-20) is applicable to returns due
18 on and after January 1, 2005.

19 (1) A penalty shall be imposed for failure to pay,
20 prior to the due date for payment, any amount of tax the
21 payment of which is required to be made prior to the filing
22 of a return or without a return (penalty for late payment
23 or nonpayment of estimated or accelerated tax). The amount
24 of penalty imposed under this paragraph (1) shall be 2% of
25 any amount that is paid no later than 30 days after the due
26 date and 10% of any amount that is paid later than 30 days

1 after the due date.

2 (2) A penalty shall be imposed for failure to pay the
3 tax shown due or required to be shown due on a return on or
4 before the due date prescribed for payment of that tax or
5 an amount that is reported in an amended return other than
6 an amended return timely filed as required by subsection
7 (b) of Section 506 of the Illinois Income Tax Act (penalty
8 for late payment or nonpayment of tax). The amount of
9 penalty imposed under this paragraph (2) shall be 2% of any
10 amount that is paid no later than 30 days after the due
11 date, 10% of any amount that is paid later than 30 days
12 after the due date and prior to the date the Department has
13 initiated an audit or investigation of the taxpayer, and
14 20% of any amount that is paid after the date the
15 Department has initiated an audit or investigation of the
16 taxpayer; provided that the penalty shall be reduced to 15%
17 if the entire amount due is paid not later than 30 days
18 after the Department has provided the taxpayer with an
19 amended return (following completion of an occupation,
20 use, or excise tax audit) or a form for waiver of
21 restrictions on assessment (following completion of an
22 income tax audit); provided further that the reduction to
23 15% shall be rescinded if the taxpayer makes any claim for
24 refund or credit of the tax, penalties, or interest
25 determined to be due upon audit, except in the case of a
26 claim filed pursuant to subsection (b) of Section 506 of

1 the Illinois Income Tax Act or to claim a carryover of a
2 loss or credit, the availability of which was not
3 determined in the audit. For purposes of this paragraph
4 (2), any overpayment reported on an original return that
5 has been allowed as a refund or credit to the taxpayer
6 shall be deemed to have not been paid on or before the due
7 date for payment and any amount paid under protest pursuant
8 to the provisions of the State Officers and Employees Money
9 Disposition Act shall be deemed to have been paid after the
10 Department has initiated an audit and more than 30 days
11 after the Department has provided the taxpayer with an
12 amended return (following completion of an occupation,
13 use, or excise tax audit) or a form for waiver of
14 restrictions on assessment (following completion of an
15 income tax audit).

16 (3) The penalty imposed under this subsection (b-20)
17 shall be deemed assessed at the time the tax upon which the
18 penalty is computed is assessed, except that, if the
19 reduction of the penalty imposed under paragraph (2) of
20 this subsection (b-20) to 15% is rescinded because a claim
21 for refund or credit has been filed, the increase in
22 penalty shall be deemed assessed at the time the claim for
23 refund or credit is filed.

24 (c) For purposes of the late payment penalties, the basis
25 of the penalty shall be the tax shown or required to be shown
26 on a return, whichever is applicable, reduced by any part of

1 the tax which is paid on time and by any credit which was
2 properly allowable on the date the return was required to be
3 filed.

4 (d) A penalty shall be applied to the tax required to be
5 shown even if that amount is less than the tax shown on the
6 return.

7 (e) This subsection (e) is applicable to returns due before
8 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)
9 penalty and a subsection (b)(2) or (b-5)(2) penalty are
10 assessed against the same return, the subsection (b)(2) or
11 (b-5)(2) penalty shall be assessed against only the additional
12 tax found to be due.

13 (e-5) This subsection (e-5) is applicable to returns due on
14 and after January 1, 2001. If both a subsection (b-10)(1)
15 penalty and a subsection (b-10)(2) penalty are assessed against
16 the same return, the subsection (b-10)(2) penalty shall be
17 assessed against only the additional tax found to be due.

18 (f) If the taxpayer has failed to file the return, the
19 Department shall determine the correct tax according to its
20 best judgment and information, which amount shall be prima
21 facie evidence of the correctness of the tax due.

22 (g) The time within which to file a return or pay an amount
23 of tax due without imposition of a penalty does not extend the
24 time within which to file a protest to a notice of tax
25 liability or a notice of deficiency.

26 (h) No return shall be determined to be unprocessable

1 because of the omission of any information requested on the
2 return pursuant to Section 2505-575 of the Department of
3 Revenue Law (20 ILCS 2505/2505-575).

4 (i) If a taxpayer has a tax liability that is eligible for
5 amnesty under the Tax Delinquency Amnesty Act and the taxpayer
6 fails to satisfy the tax liability during the amnesty period
7 provided for in that Act, then the penalty imposed by the
8 Department under this Section shall be imposed in an amount
9 that is 200% of the amount that would otherwise be imposed
10 under this Section.

11 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,
12 eff. 6-20-03; 93-1068, eff. 1-15-05.)

13 Section 35. The Counties Code is amended by changing
14 Sections 5-1006, 5-1006.5, 5-1006.7, and 5-1007 as follows:

15 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

16 Sec. 5-1006. Home Rule County Retailers' Occupation Tax
17 Law. Any county that is a home rule unit may impose a tax upon
18 all persons engaged in the business of selling tangible
19 personal property, other than an item of tangible personal
20 property titled or registered with an agency of this State's
21 government, at retail in the county on the gross receipts from
22 such sales made in the course of their business. If imposed,
23 this tax shall only be imposed in 1/4% increments. On and after
24 September 1, 1991, this additional tax may not be imposed on

1 the sales of food for human consumption which is to be consumed
2 off the premises where it is sold (other than alcoholic
3 beverages, soft drinks and food which has been prepared for
4 immediate consumption) and prescription and nonprescription
5 medicines, drugs, medical appliances, modifications to a motor
6 vehicle for the purpose of rendering it usable by a disabled
7 person, and insulin, urine testing materials, syringes and
8 needles used by diabetics. The tax imposed by a home rule
9 county pursuant to this Section and all civil penalties that
10 may be assessed as an incident thereof shall be collected and
11 enforced by the State Department of Revenue. The certificate of
12 registration that is issued by the Department to a retailer
13 under the Retailers' Occupation Tax Act shall permit the
14 retailer to engage in a business that is taxable under any
15 ordinance or resolution enacted pursuant to this Section
16 without registering separately with the Department under such
17 ordinance or resolution or under this Section. The Department
18 shall have full power to administer and enforce this Section;
19 to collect all taxes and penalties due hereunder; to dispose of
20 taxes and penalties so collected in the manner hereinafter
21 provided; and to determine all rights to credit memoranda
22 arising on account of the erroneous payment of tax or penalty
23 hereunder. In the administration of, and compliance with, this
24 Section, the Department and persons who are subject to this
25 Section shall have the same rights, remedies, privileges,
26 immunities, powers and duties, and be subject to the same

1 conditions, restrictions, limitations, penalties and
2 definitions of terms, and employ the same modes of procedure,
3 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
4 1k, 1m, 1n, 2 through 2-65 (in respect to all provisions
5 therein other than the State rate of tax), 4, 5, 5a, 5b, 5c,
6 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,
7 11, 12 and 13 of the Retailers' Occupation Tax Act and Section
8 3-7 of the Uniform Penalty and Interest Act, as fully as if
9 those provisions were set forth herein.

10 No tax may be imposed by a home rule county pursuant to
11 this Section unless the county also imposes a tax at the same
12 rate pursuant to Section 5-1007.

13 Persons subject to any tax imposed pursuant to the
14 authority granted in this Section may reimburse themselves for
15 their seller's tax liability hereunder by separately stating
16 such tax as an additional charge, which charge may be stated in
17 combination, in a single amount, with State tax which sellers
18 are required to collect under the Use Tax Act, pursuant to such
19 bracket schedules as the Department may prescribe.

20 Whenever the Department determines that a refund should be
21 made under this Section to a claimant instead of issuing a
22 credit memorandum, the Department shall notify the State
23 Comptroller, who shall cause the order to be drawn for the
24 amount specified and to the person named in the notification
25 from the Department. The refund shall be paid by the State
26 Treasurer out of the home rule county retailers' occupation tax

1 fund.

2 The Department shall forthwith pay over to the State
3 Treasurer, ex officio, as trustee, all taxes and penalties
4 collected hereunder. On or before the 25th day of each calendar
5 month, the Department shall prepare and certify to the
6 Comptroller the disbursement of stated sums of money to named
7 counties, the counties to be those from which retailers have
8 paid taxes or penalties hereunder to the Department during the
9 second preceding calendar month. The amount to be paid to each
10 county shall be the amount (not including credit memoranda)
11 collected hereunder during the second preceding calendar month
12 by the Department plus an amount the Department determines is
13 necessary to offset any amounts that were erroneously paid to a
14 different taxing body, and not including an amount equal to the
15 amount of refunds made during the second preceding calendar
16 month by the Department on behalf of such county, and not
17 including any amount which the Department determines is
18 necessary to offset any amounts which were payable to a
19 different taxing body but were erroneously paid to the county.
20 Within 10 days after receipt, by the Comptroller, of the
21 disbursement certification to the counties provided for in this
22 Section to be given to the Comptroller by the Department, the
23 Comptroller shall cause the orders to be drawn for the
24 respective amounts in accordance with the directions contained
25 in the certification.

26 In addition to the disbursement required by the preceding

1 paragraph, an allocation shall be made in March of each year to
2 each county that received more than \$500,000 in disbursements
3 under the preceding paragraph in the preceding calendar year.
4 The allocation shall be in an amount equal to the average
5 monthly distribution made to each such county under the
6 preceding paragraph during the preceding calendar year
7 (excluding the 2 months of highest receipts). The distribution
8 made in March of each year subsequent to the year in which an
9 allocation was made pursuant to this paragraph and the
10 preceding paragraph shall be reduced by the amount allocated
11 and disbursed under this paragraph in the preceding calendar
12 year. The Department shall prepare and certify to the
13 Comptroller for disbursement the allocations made in
14 accordance with this paragraph.

15 For the purpose of determining the local governmental unit
16 whose tax is applicable, a retail sale by a producer of coal or
17 other mineral mined in Illinois is a sale at retail at the
18 place where the coal or other mineral mined in Illinois is
19 extracted from the earth. This paragraph does not apply to coal
20 or other mineral when it is delivered or shipped by the seller
21 to the purchaser at a point outside Illinois so that the sale
22 is exempt under the United States Constitution as a sale in
23 interstate or foreign commerce.

24 Nothing in this Section shall be construed to authorize a
25 county to impose a tax upon the privilege of engaging in any
26 business which under the Constitution of the United States may

1 not be made the subject of taxation by this State.

2 An ordinance or resolution imposing or discontinuing a tax
3 hereunder or effecting a change in the rate thereof shall be
4 adopted and a certified copy thereof filed with the Department
5 on or before the first day of June, whereupon the Department
6 shall proceed to administer and enforce this Section as of the
7 first day of September next following such adoption and filing.
8 Beginning January 1, 1992, an ordinance or resolution imposing
9 or discontinuing the tax hereunder or effecting a change in the
10 rate thereof shall be adopted and a certified copy thereof
11 filed with the Department on or before the first day of July,
12 whereupon the Department shall proceed to administer and
13 enforce this Section as of the first day of October next
14 following such adoption and filing. Beginning January 1, 1993,
15 an ordinance or resolution imposing or discontinuing the tax
16 hereunder or effecting a change in the rate thereof shall be
17 adopted and a certified copy thereof filed with the Department
18 on or before the first day of October, whereupon the Department
19 shall proceed to administer and enforce this Section as of the
20 first day of January next following such adoption and filing.
21 Beginning April 1, 1998, an ordinance or resolution imposing or
22 discontinuing the tax hereunder or effecting a change in the
23 rate thereof shall either (i) be adopted and a certified copy
24 thereof filed with the Department on or before the first day of
25 April, whereupon the Department shall proceed to administer and
26 enforce this Section as of the first day of July next following

1 the adoption and filing; or (ii) be adopted and a certified
2 copy thereof filed with the Department on or before the first
3 day of October, whereupon the Department shall proceed to
4 administer and enforce this Section as of the first day of
5 January next following the adoption and filing.

6 When certifying the amount of a monthly disbursement to a
7 county under this Section, the Department shall increase or
8 decrease such amount by an amount necessary to offset any
9 misallocation of previous disbursements. The offset amount
10 shall be the amount erroneously disbursed within the previous 6
11 months from the time a misallocation is discovered.

12 This Section shall be known and may be cited as the Home
13 Rule County Retailers' Occupation Tax Law.

14 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

15 (55 ILCS 5/5-1006.5)

16 Sec. 5-1006.5. Special County Retailers' Occupation Tax
17 For Public Safety or Transportation.

18 (a) The county board of any county may impose a tax upon
19 all persons engaged in the business of selling tangible
20 personal property, other than personal property titled or
21 registered with an agency of this State's government, at retail
22 in the county on the gross receipts from the sales made in the
23 course of business to provide revenue to be used exclusively
24 for public safety or transportation purposes in that county, if
25 a proposition for the tax has been submitted to the electors of

1 that county and approved by a majority of those voting on the
2 question. If imposed, this tax shall be imposed only in
3 one-quarter percent increments. By resolution, the county
4 board may order the proposition to be submitted at any
5 election. If the tax is imposed for transportation purposes for
6 expenditures for public highways or as authorized under the
7 Illinois Highway Code, the county board must publish notice of
8 the existence of its long-range highway transportation plan as
9 required or described in Section 5-301 of the Illinois Highway
10 Code and must make the plan publicly available prior to
11 approval of the ordinance or resolution imposing the tax. If
12 the tax is imposed for transportation purposes for expenditures
13 for passenger rail transportation, the county board must
14 publish notice of the existence of its long-range passenger
15 rail transportation plan and must make the plan publicly
16 available prior to approval of the ordinance or resolution
17 imposing the tax. The county clerk shall certify the question
18 to the proper election authority, who shall submit the
19 proposition at an election in accordance with the general
20 election law.

21 (1) The proposition for public safety purposes shall be
22 in substantially the following form:

23 "To pay for public safety purposes, shall (name of
24 county) be authorized to impose an increase on its share of
25 local sales taxes by (insert rate)?"

26 As additional information on the ballot below the

1 question shall appear the following:

2 "This would mean that a consumer would pay an
3 additional (insert amount) in sales tax for every \$100 of
4 tangible personal property bought at retail."

5 The county board may also opt to establish a sunset
6 provision at which time the additional sales tax would
7 cease being collected, if not terminated earlier by a vote
8 of the county board. If the county board votes to include a
9 sunset provision, the proposition for public safety
10 purposes shall be in substantially the following form:

11 "To pay for public safety purposes, shall (name of
12 county) be authorized to impose an increase on its share of
13 local sales taxes by (insert rate) for a period not to
14 exceed (insert number of years)?"

15 As additional information on the ballot below the
16 question shall appear the following:

17 "This would mean that a consumer would pay an
18 additional (insert amount) in sales tax for every \$100 of
19 tangible personal property bought at retail. If imposed,
20 the additional tax would cease being collected at the end
21 of (insert number of years), if not terminated earlier by a
22 vote of the county board."

23 For the purposes of the paragraph, "public safety
24 purposes" means crime prevention, detention, fire
25 fighting, police, medical, ambulance, or other emergency
26 services.

1 Votes shall be recorded as "Yes" or "No".

2 (2) The proposition for transportation purposes shall
3 be in substantially the following form:

4 "To pay for improvements to roads and other
5 transportation purposes, shall (name of county) be
6 authorized to impose an increase on its share of local
7 sales taxes by (insert rate)?"

8 As additional information on the ballot below the
9 question shall appear the following:

10 "This would mean that a consumer would pay an
11 additional (insert amount) in sales tax for every \$100 of
12 tangible personal property bought at retail."

13 The county board may also opt to establish a sunset
14 provision at which time the additional sales tax would
15 cease being collected, if not terminated earlier by a vote
16 of the county board. If the county board votes to include a
17 sunset provision, the proposition for transportation
18 purposes shall be in substantially the following form:

19 "To pay for road improvements and other transportation
20 purposes, shall (name of county) be authorized to impose an
21 increase on its share of local sales taxes by (insert rate)
22 for a period not to exceed (insert number of years)?"

23 As additional information on the ballot below the
24 question shall appear the following:

25 "This would mean that a consumer would pay an
26 additional (insert amount) in sales tax for every \$100 of

1 tangible personal property bought at retail. If imposed,
2 the additional tax would cease being collected at the end
3 of (insert number of years), if not terminated earlier by a
4 vote of the county board."

5 For the purposes of this paragraph, transportation
6 purposes means construction, maintenance, operation, and
7 improvement of public highways, any other purpose for which
8 a county may expend funds under the Illinois Highway Code,
9 and passenger rail transportation.

10 The votes shall be recorded as "Yes" or "No".

11 If a majority of the electors voting on the proposition
12 vote in favor of it, the county may impose the tax. A county
13 may not submit more than one proposition authorized by this
14 Section to the electors at any one time.

15 This additional tax may not be imposed on the sales of food
16 for human consumption that is to be consumed off the premises
17 where it is sold (other than alcoholic beverages, soft drinks,
18 and food which has been prepared for immediate consumption) and
19 prescription and non-prescription medicines, drugs, medical
20 appliances, modifications to a motor vehicle for the purpose of
21 rendering it usable by a disabled person, and insulin, urine
22 testing materials, syringes, and needles used by diabetics. The
23 tax imposed by a county under this Section and all civil
24 penalties that may be assessed as an incident of the tax shall
25 be collected and enforced by the Illinois Department of Revenue
26 and deposited into a special fund created for that purpose. The

1 certificate of registration that is issued by the Department to
2 a retailer under the Retailers' Occupation Tax Act shall permit
3 the retailer to engage in a business that is taxable without
4 registering separately with the Department under an ordinance
5 or resolution under this Section. The Department has full power
6 to administer and enforce this Section, to collect all taxes
7 and penalties due under this Section, to dispose of taxes and
8 penalties so collected in the manner provided in this Section,
9 and to determine all rights to credit memoranda arising on
10 account of the erroneous payment of a tax or penalty under this
11 Section. In the administration of and compliance with this
12 Section, the Department and persons who are subject to this
13 Section shall (i) have the same rights, remedies, privileges,
14 immunities, powers, and duties, (ii) be subject to the same
15 conditions, restrictions, limitations, penalties, and
16 definitions of terms, and (iii) employ the same modes of
17 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
18 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to all
19 provisions contained in those Sections other than the State
20 rate of tax), 2a, 2b, 2c, 3 (except provisions relating to
21 transaction returns and quarter monthly payments), 4, 5, 5a,
22 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
23 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
24 and Section 3-7 of the Uniform Penalty and Interest Act as if
25 those provisions were set forth in this Section.

26 Persons subject to any tax imposed under the authority

1 granted in this Section may reimburse themselves for their
2 sellers' tax liability by separately stating the tax as an
3 additional charge, which charge may be stated in combination,
4 in a single amount, with State tax which sellers are required
5 to collect under the Use Tax Act, pursuant to such bracketed
6 schedules as the Department may prescribe.

7 Whenever the Department determines that a refund should be
8 made under this Section to a claimant instead of issuing a
9 credit memorandum, the Department shall notify the State
10 Comptroller, who shall cause the order to be drawn for the
11 amount specified and to the person named in the notification
12 from the Department. The refund shall be paid by the State
13 Treasurer out of the County Public Safety or Transportation
14 Retailers' Occupation Tax Fund.

15 (b) If a tax has been imposed under subsection (a), a
16 service occupation tax shall also be imposed at the same rate
17 upon all persons engaged, in the county, in the business of
18 making sales of service, who, as an incident to making those
19 sales of service, transfer tangible personal property within
20 the county as an incident to a sale of service. This tax may
21 not be imposed on sales of food for human consumption that is
22 to be consumed off the premises where it is sold (other than
23 alcoholic beverages, soft drinks, and food prepared for
24 immediate consumption) and prescription and non-prescription
25 medicines, drugs, medical appliances, modifications to a motor
26 vehicle for the purpose of rendering it usable by a disabled

1 person, and insulin, urine testing materials, syringes, and
2 needles used by diabetics. The tax imposed under this
3 subsection and all civil penalties that may be assessed as an
4 incident thereof shall be collected and enforced by the
5 Department of Revenue. The Department has full power to
6 administer and enforce this subsection; to collect all taxes
7 and penalties due hereunder; to dispose of taxes and penalties
8 so collected in the manner hereinafter provided; and to
9 determine all rights to credit memoranda arising on account of
10 the erroneous payment of tax or penalty hereunder. In the
11 administration of, and compliance with this subsection, the
12 Department and persons who are subject to this paragraph shall
13 (i) have the same rights, remedies, privileges, immunities,
14 powers, and duties, (ii) be subject to the same conditions,
15 restrictions, limitations, penalties, exclusions, exemptions,
16 and definitions of terms, and (iii) employ the same modes of
17 procedure as are prescribed in Sections 2 (except that the
18 reference to State in the definition of supplier maintaining a
19 place of business in this State shall mean the county), 2a, 2b,
20 2c, 3 through 3-50 (in respect to all provisions therein other
21 than the State rate of tax), 4 (except that the reference to
22 the State shall be to the county), 5, 7, 8 (except that the
23 jurisdiction to which the tax shall be a debt to the extent
24 indicated in that Section 8 shall be the county), 9 (except as
25 to the disposition of taxes and penalties collected), 10, 11,
26 12 (except the reference therein to Section 2b of the

1 Retailers' Occupation Tax Act), 13 (except that any reference
2 to the State shall mean the county), Section 15, 16, 17, 18, 19
3 and 20 of the Service Occupation Tax Act and Section 3-7 of the
4 Uniform Penalty and Interest Act, as fully as if those
5 provisions were set forth herein.

6 Persons subject to any tax imposed under the authority
7 granted in this subsection may reimburse themselves for their
8 serviceman's tax liability by separately stating the tax as an
9 additional charge, which charge may be stated in combination,
10 in a single amount, with State tax that servicemen are
11 authorized to collect under the Service Use Tax Act, in
12 accordance with such bracket schedules as the Department may
13 prescribe.

14 Whenever the Department determines that a refund should be
15 made under this subsection to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the warrant to be drawn for the
18 amount specified, and to the person named, in the notification
19 from the Department. The refund shall be paid by the State
20 Treasurer out of the County Public Safety or Transportation
21 Retailers' Occupation Fund.

22 Nothing in this subsection shall be construed to authorize
23 the county to impose a tax upon the privilege of engaging in
24 any business which under the Constitution of the United States
25 may not be made the subject of taxation by the State.

26 (c) The Department shall immediately pay over to the State

1 Treasurer, ex officio, as trustee, all taxes and penalties
2 collected under this Section to be deposited into the County
3 Public Safety or Transportation Retailers' Occupation Tax
4 Fund, which shall be an unappropriated trust fund held outside
5 of the State treasury. On or before the 25th day of each
6 calendar month, the Department shall prepare and certify to the
7 Comptroller the disbursement of stated sums of money to the
8 counties from which retailers have paid taxes or penalties to
9 the Department during the second preceding calendar month. The
10 amount to be paid to each county, and deposited by the county
11 into its special fund created for the purposes of this Section,
12 shall be the amount (not including credit memoranda) collected
13 under this Section during the second preceding calendar month
14 by the Department plus an amount the Department determines is
15 necessary to offset any amounts that were erroneously paid to a
16 different taxing body, and not including (i) an amount equal to
17 the amount of refunds made during the second preceding calendar
18 month by the Department on behalf of the county and (ii) any
19 amount that the Department determines is necessary to offset
20 any amounts that were payable to a different taxing body but
21 were erroneously paid to the county. Within 10 days after
22 receipt by the Comptroller of the disbursement certification to
23 the counties provided for in this Section to be given to the
24 Comptroller by the Department, the Comptroller shall cause the
25 orders to be drawn for the respective amounts in accordance
26 with directions contained in the certification.

1 In addition to the disbursement required by the preceding
2 paragraph, an allocation shall be made in March of each year to
3 each county that received more than \$500,000 in disbursements
4 under the preceding paragraph in the preceding calendar year.
5 The allocation shall be in an amount equal to the average
6 monthly distribution made to each such county under the
7 preceding paragraph during the preceding calendar year
8 (excluding the 2 months of highest receipts). The distribution
9 made in March of each year subsequent to the year in which an
10 allocation was made pursuant to this paragraph and the
11 preceding paragraph shall be reduced by the amount allocated
12 and disbursed under this paragraph in the preceding calendar
13 year. The Department shall prepare and certify to the
14 Comptroller for disbursement the allocations made in
15 accordance with this paragraph.

16 (d) For the purpose of determining the local governmental
17 unit whose tax is applicable, a retail sale by a producer of
18 coal or another mineral mined in Illinois is a sale at retail
19 at the place where the coal or other mineral mined in Illinois
20 is extracted from the earth. This paragraph does not apply to
21 coal or another mineral when it is delivered or shipped by the
22 seller to the purchaser at a point outside Illinois so that the
23 sale is exempt under the United States Constitution as a sale
24 in interstate or foreign commerce.

25 (e) Nothing in this Section shall be construed to authorize
26 a county to impose a tax upon the privilege of engaging in any

1 business that under the Constitution of the United States may
2 not be made the subject of taxation by this State.

3 (e-5) If a county imposes a tax under this Section, the
4 county board may, by ordinance, discontinue or lower the rate
5 of the tax. If the county board lowers the tax rate or
6 discontinues the tax, a referendum must be held in accordance
7 with subsection (a) of this Section in order to increase the
8 rate of the tax or to reimpose the discontinued tax.

9 (f) Beginning April 1, 1998, the results of any election
10 authorizing a proposition to impose a tax under this Section or
11 effecting a change in the rate of tax, or any ordinance
12 lowering the rate or discontinuing the tax, shall be certified
13 by the county clerk and filed with the Illinois Department of
14 Revenue either (i) on or before the first day of April,
15 whereupon the Department shall proceed to administer and
16 enforce the tax as of the first day of July next following the
17 filing; or (ii) on or before the first day of October,
18 whereupon the Department shall proceed to administer and
19 enforce the tax as of the first day of January next following
20 the filing.

21 (g) When certifying the amount of a monthly disbursement to
22 a county under this Section, the Department shall increase or
23 decrease the amounts by an amount necessary to offset any
24 miscalculation of previous disbursements. The offset amount
25 shall be the amount erroneously disbursed within the previous 6
26 months from the time a miscalculation is discovered.

1 (h) This Section may be cited as the "Special County
2 Occupation Tax For Public Safety or Transportation Law".

3 (i) For purposes of this Section, "public safety" includes,
4 but is not limited to, crime prevention, detention, fire
5 fighting, police, medical, ambulance, or other emergency
6 services. For the purposes of this Section, "transportation"
7 includes, but is not limited to, the construction, maintenance,
8 operation, and improvement of public highways, any other
9 purpose for which a county may expend funds under the Illinois
10 Highway Code, and passenger rail transportation.

11 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08.)

12 (55 ILCS 5/5-1006.7)

13 Sec. 5-1006.7. School facility occupation taxes.

14 (a) The county board of any county may impose a tax upon
15 all persons engaged in the business of selling tangible
16 personal property, other than personal property titled or
17 registered with an agency of this State's government, at retail
18 in the county on the gross receipts from the sales made in the
19 course of business to provide revenue to be used exclusively
20 for school facility purposes if a proposition for the tax has
21 been submitted to the electors of that county and approved by a
22 majority of those voting on the question as provided in
23 subsection (c). The tax under this Section may be imposed only
24 in one-quarter percent increments and may not exceed 1%.

25 This additional tax may not be imposed on the sale of food

1 for human consumption that is to be consumed off the premises
2 where it is sold (other than alcoholic beverages, soft drinks,
3 and food that has been prepared for immediate consumption) and
4 prescription and non-prescription medicines, drugs, medical
5 appliances, modifications to a motor vehicle for the purpose of
6 rendering it usable by a disabled person, and insulin, urine
7 testing materials, syringes and needles used by diabetics. The
8 Department of Revenue has full power to administer and enforce
9 this subsection, to collect all taxes and penalties due under
10 this subsection, to dispose of taxes and penalties so collected
11 in the manner provided in this subsection, and to determine all
12 rights to credit memoranda arising on account of the erroneous
13 payment of a tax or penalty under this subsection. The
14 Department shall deposit all taxes and penalties collected
15 under this subsection into a special fund created for that
16 purpose.

17 In the administration of and compliance with this
18 subsection, the Department and persons who are subject to this
19 subsection (i) have the same rights, remedies, privileges,
20 immunities, powers, and duties, (ii) are subject to the same
21 conditions, restrictions, limitations, penalties, and
22 definitions of terms, and (iii) shall employ the same modes of
23 procedure as are set forth in Sections 1 through 10, 2 through
24 2-70 (in respect to all provisions contained in those Sections
25 other than the State rate of tax), 2a through 2h, 3 (except as
26 to the disposition of taxes and penalties collected), 4, 5, 5a,

1 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
2 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
3 and all provisions of the Uniform Penalty and Interest Act as
4 if those provisions were set forth in this subsection.

5 The certificate of registration that is issued by the
6 Department to a retailer under the Retailers' Occupation Tax
7 Act permits the retailer to engage in a business that is
8 taxable without registering separately with the Department
9 under an ordinance or resolution under this subsection.

10 Persons subject to any tax imposed under the authority
11 granted in this subsection may reimburse themselves for their
12 seller's tax liability by separately stating that tax as an
13 additional charge, which may be stated in combination, in a
14 single amount, with State tax that sellers are required to
15 collect under the Use Tax Act, pursuant to any bracketed
16 schedules set forth by the Department.

17 (b) If a tax has been imposed under subsection (a), then a
18 service occupation tax must also be imposed at the same rate
19 upon all persons engaged, in the county, in the business of
20 making sales of service, who, as an incident to making those
21 sales of service, transfer tangible personal property within
22 the county as an incident to a sale of service.

23 This tax may not be imposed on sales of food for human
24 consumption that is to be consumed off the premises where it is
25 sold (other than alcoholic beverages, soft drinks, and food
26 prepared for immediate consumption) and prescription and

1 non-prescription medicines, drugs, medical appliances,
2 modifications to a motor vehicle for the purpose of rendering
3 it usable by a disabled person, and insulin, urine testing
4 materials, syringes, and needles used by diabetics.

5 The tax imposed under this subsection and all civil
6 penalties that may be assessed as an incident thereof shall be
7 collected and enforced by the Department and deposited into a
8 special fund created for that purpose. The Department has full
9 power to administer and enforce this subsection, to collect all
10 taxes and penalties due under this subsection, to dispose of
11 taxes and penalties so collected in the manner provided in this
12 subsection, and to determine all rights to credit memoranda
13 arising on account of the erroneous payment of a tax or penalty
14 under this subsection.

15 In the administration of and compliance with this
16 subsection, the Department and persons who are subject to this
17 subsection shall (i) have the same rights, remedies,
18 privileges, immunities, powers and duties, (ii) be subject to
19 the same conditions, restrictions, limitations, penalties and
20 definition of terms, and (iii) employ the same modes of
21 procedure as are set forth in Sections 2 (except that that
22 reference to State in the definition of supplier maintaining a
23 place of business in this State means the county), 2a through
24 2d, 3 through 3-50 (in respect to all provisions contained in
25 those Sections other than the State rate of tax), 4 (except
26 that the reference to the State shall be to the county), 5, 7,

1 8 (except that the jurisdiction to which the tax is a debt to
2 the extent indicated in that Section 8 is the county), 9
3 (except as to the disposition of taxes and penalties
4 collected), 10, 11, 12 (except the reference therein to Section
5 2b of the Retailers' Occupation Tax Act), 13 (except that any
6 reference to the State means the county), Section 15, 16, 17,
7 18, 19, and 20 of the Service Occupation Tax Act and all
8 provisions of the Uniform Penalty and Interest Act, as fully as
9 if those provisions were set forth herein.

10 Persons subject to any tax imposed under the authority
11 granted in this subsection may reimburse themselves for their
12 serviceman's tax liability by separately stating the tax as an
13 additional charge, which may be stated in combination, in a
14 single amount, with State tax that servicemen are authorized to
15 collect under the Service Use Tax Act, pursuant to any
16 bracketed schedules set forth by the Department.

17 (c) The tax under this Section may not be imposed until, by
18 ordinance or resolution of the county board, the question of
19 imposing the tax has been submitted to the electors of the
20 county at a regular election and approved by a majority of the
21 electors voting on the question. Upon a resolution by the
22 county board or a resolution by school district boards that
23 represent at least 51% of the student enrollment within the
24 county, the county board must certify the question to the
25 proper election authority in accordance with the Election Code.

26 The election authority must submit the question in

1 substantially the following form:

2 Shall (name of county) be authorized to impose a
3 retailers' occupation tax and a service occupation tax
4 (commonly referred to as a "sales tax") at a rate of
5 (insert rate) to be used exclusively for school facility
6 purposes?

7 The election authority must record the votes as "Yes" or "No".

8 If a majority of the electors voting on the question vote
9 in the affirmative, then the county may, thereafter, impose the
10 tax.

11 For the purposes of this subsection (c), "enrollment" means
12 the head count of the students residing in the county on the
13 last school day of September of each year, which must be
14 reported on the Illinois State Board of Education Public School
15 Fall Enrollment/Housing Report.

16 (d) The Department shall immediately pay over to the State
17 Treasurer, ex officio, as trustee, all taxes and penalties
18 collected under this Section to be deposited into the School
19 Facility Occupation Tax Fund, which shall be an unappropriated
20 trust fund held outside the State treasury.

21 On or before the 25th day of each calendar month, the
22 Department shall prepare and certify to the Comptroller the
23 disbursement of stated sums of money to the regional
24 superintendents of schools in counties from which retailers or
25 servicemen have paid taxes or penalties to the Department
26 during the second preceding calendar month. The amount to be

1 paid to each regional superintendent of schools and disbursed
2 to him or her in accordance with 3-14.31 of the School Code, is
3 equal to the amount (not including credit memoranda) collected
4 from the county under this Section during the second preceding
5 calendar month by the Department, (i) less 2% of that amount,
6 which shall be deposited into the Tax Compliance and
7 Administration Fund and shall be used by the Department,
8 subject to appropriation, to cover the costs of the Department
9 in administering and enforcing the provisions of this Section,
10 on behalf of the county, (ii) plus an amount that the
11 Department determines is necessary to offset any amounts that
12 were erroneously paid to a different taxing body; (iii) less an
13 amount equal to the amount of refunds made during the second
14 preceding calendar month by the Department on behalf of the
15 county; and (iv) less any amount that the Department determines
16 is necessary to offset any amounts that were payable to a
17 different taxing body but were erroneously paid to the county.
18 When certifying the amount of a monthly disbursement to a
19 regional superintendent of schools under this Section, the
20 Department shall increase or decrease the amounts by an amount
21 necessary to offset any miscalculation of previous
22 disbursements within the previous 6 months from the time a
23 miscalculation is discovered.

24 Within 10 days after receipt by the Comptroller from the
25 Department of the disbursement certification to the regional
26 superintendents of the schools provided for in this Section,

1 the Comptroller shall cause the orders to be drawn for the
2 respective amounts in accordance with directions contained in
3 the certification.

4 If the Department determines that a refund should be made
5 under this Section to a claimant instead of issuing a credit
6 memorandum, then the Department shall notify the Comptroller,
7 who shall cause the order to be drawn for the amount specified
8 and to the person named in the notification from the
9 Department. The refund shall be paid by the Treasurer out of
10 the School Facility Occupation Tax Fund.

11 (e) For the purposes of determining the local governmental
12 unit whose tax is applicable, a retail sale by a producer of
13 coal or another mineral mined in Illinois is a sale at retail
14 at the place where the coal or other mineral mined in Illinois
15 is extracted from the earth. This subsection does not apply to
16 coal or another mineral when it is delivered or shipped by the
17 seller to the purchaser at a point outside Illinois so that the
18 sale is exempt under the United States Constitution as a sale
19 in interstate or foreign commerce.

20 (f) Nothing in this Section may be construed to authorize a
21 county board to impose a tax upon the privilege of engaging in
22 any business that under the Constitution of the United States
23 may not be made the subject of taxation by this State.

24 (g) If a county board imposes a tax under this Section,
25 then the board may, by ordinance, discontinue or reduce the
26 rate of the tax. If, however, a school board issues bonds that

1 are backed by the proceeds of the tax under this Section, then
2 the county board may not reduce the tax rate or discontinue the
3 tax if that rate reduction or discontinuance would inhibit the
4 school board's ability to pay the principal and interest on
5 those bonds as they become due. If the county board reduces the
6 tax rate or discontinues the tax, then a referendum must be
7 held in accordance with subsection (c) of this Section in order
8 to increase the rate of the tax or to reimpose the discontinued
9 tax.

10 The results of any election that authorizes a proposition
11 to impose a tax under this Section or to change the rate of the
12 tax along with an ordinance imposing the tax, or any ordinance
13 that lowers the rate or discontinues the tax, must be certified
14 by the county clerk and filed with the Illinois Department of
15 Revenue either (i) on or before the first day of April,
16 whereupon the Department shall proceed to administer and
17 enforce the tax or change in the rate as of the first day of
18 July next following the filing; or (ii) on or before the first
19 day of October, whereupon the Department shall proceed to
20 administer and enforce the tax or change in the rate as of the
21 first day of January next following the filing.

22 (h) For purposes of this Section, "school facility
23 purposes" means the acquisition, development, construction,
24 reconstruction, rehabilitation, improvement, financing,
25 architectural planning, and installation of capital facilities
26 consisting of buildings, structures, and durable equipment and

1 for the acquisition and improvement of real property and
2 interest in real property required, or expected to be required,
3 in connection with the capital facilities. "School-facility
4 purposes" also includes fire prevention, safety, energy
5 conservation, disabled accessibility, school security, and
6 specified repair purposes set forth under Section 17-2.11 of
7 the School Code.

8 (i) This Section does not apply to Cook County.

9 (j) This Section may be cited as the County School Facility
10 Occupation Tax Law.

11 (Source: P.A. 95-675, eff. 10-11-07.)

12 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

13 Sec. 5-1007. Home Rule County Service Occupation Tax Law.
14 The corporate authorities of a home rule county may impose a
15 tax upon all persons engaged, in such county, in the business
16 of making sales of service at the same rate of tax imposed
17 pursuant to Section 5-1006 of the selling price of all tangible
18 personal property transferred by such servicemen either in the
19 form of tangible personal property or in the form of real
20 estate as an incident to a sale of service. If imposed, such
21 tax shall only be imposed in 1/4% increments. On and after
22 September 1, 1991, this additional tax may not be imposed on
23 the sales of food for human consumption which is to be consumed
24 off the premises where it is sold (other than alcoholic
25 beverages, soft drinks and food which has been prepared for

1 immediate consumption) and prescription and nonprescription
2 medicines, drugs, medical appliances, modifications to a motor
3 vehicle for the purpose of rendering it usable by a disabled
4 person, and insulin, urine testing materials, syringes and
5 needles used by diabetics. The tax imposed by a home rule
6 county pursuant to this Section and all civil penalties that
7 may be assessed as an incident thereof shall be collected and
8 enforced by the State Department of Revenue. The certificate of
9 registration which is issued by the Department to a retailer
10 under the Retailers' Occupation Tax Act or under the Service
11 Occupation Tax Act shall permit such registrant to engage in a
12 business which is taxable under any ordinance or resolution
13 enacted pursuant to this Section without registering
14 separately with the Department under such ordinance or
15 resolution or under this Section. The Department shall have
16 full power to administer and enforce this Section; to collect
17 all taxes and penalties due hereunder; to dispose of taxes and
18 penalties so collected in the manner hereinafter provided; and
19 to determine all rights to credit memoranda arising on account
20 of the erroneous payment of tax or penalty hereunder. In the
21 administration of, and compliance with, this Section the
22 Department and persons who are subject to this Section shall
23 have the same rights, remedies, privileges, immunities, powers
24 and duties, and be subject to the same conditions,
25 restrictions, limitations, penalties and definitions of terms,
26 and employ the same modes of procedure, as are prescribed in

1 Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all
2 provisions therein other than the State rate of tax), 4 (except
3 that the reference to the State shall be to the taxing county),
4 5, 7, 8 (except that the jurisdiction to which the tax shall be
5 a debt to the extent indicated in that Section 8 shall be the
6 taxing county), 9 (except as to the disposition of taxes and
7 penalties collected, and except that the returned merchandise
8 credit for this county tax may not be taken against any State
9 tax), 10, 11, 12 (except the reference therein to Section 2b of
10 the Retailers' Occupation Tax Act), 13 (except that any
11 reference to the State shall mean the taxing county), the first
12 paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service
13 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
14 Interest Act, as fully as if those provisions were set forth
15 herein.

16 No tax may be imposed by a home rule county pursuant to
17 this Section unless such county also imposes a tax at the same
18 rate pursuant to Section 5-1006.

19 Persons subject to any tax imposed pursuant to the
20 authority granted in this Section may reimburse themselves for
21 their serviceman's tax liability hereunder by separately
22 stating such tax as an additional charge, which charge may be
23 stated in combination, in a single amount, with State tax which
24 servicemen are authorized to collect under the Service Use Tax
25 Act, pursuant to such bracket schedules as the Department may
26 prescribe.

1 Whenever the Department determines that a refund should be
2 made under this Section to a claimant instead of issuing credit
3 memorandum, the Department shall notify the State Comptroller,
4 who shall cause the order to be drawn for the amount specified,
5 and to the person named, in such notification from the
6 Department. Such refund shall be paid by the State Treasurer
7 out of the home rule county retailers' occupation tax fund.

8 The Department shall forthwith pay over to the State
9 Treasurer, ex-officio, as trustee, all taxes and penalties
10 collected hereunder. On or before the 25th day of each calendar
11 month, the Department shall prepare and certify to the
12 Comptroller the disbursement of stated sums of money to named
13 counties, the counties to be those from which suppliers and
14 servicemen have paid taxes or penalties hereunder to the
15 Department during the second preceding calendar month. The
16 amount to be paid to each county shall be the amount (not
17 including credit memoranda) collected hereunder during the
18 second preceding calendar month by the Department, and not
19 including an amount equal to the amount of refunds made during
20 the second preceding calendar month by the Department on behalf
21 of such county. Within 10 days after receipt, by the
22 Comptroller, of the disbursement certification to the counties
23 provided for in this Section to be given to the Comptroller by
24 the Department, the Comptroller shall cause the orders to be
25 drawn for the respective amounts in accordance with the
26 directions contained in such certification.

1 In addition to the disbursement required by the preceding
2 paragraph, an allocation shall be made in each year to each
3 county which received more than \$500,000 in disbursements under
4 the preceding paragraph in the preceding calendar year. The
5 allocation shall be in an amount equal to the average monthly
6 distribution made to each such county under the preceding
7 paragraph during the preceding calendar year (excluding the 2
8 months of highest receipts). The distribution made in March of
9 each year subsequent to the year in which an allocation was
10 made pursuant to this paragraph and the preceding paragraph
11 shall be reduced by the amount allocated and disbursed under
12 this paragraph in the preceding calendar year. The Department
13 shall prepare and certify to the Comptroller for disbursement
14 the allocations made in accordance with this paragraph.

15 Nothing in this Section shall be construed to authorize a
16 county to impose a tax upon the privilege of engaging in any
17 business which under the Constitution of the United States may
18 not be made the subject of taxation by this State.

19 An ordinance or resolution imposing or discontinuing a tax
20 hereunder or effecting a change in the rate thereof shall be
21 adopted and a certified copy thereof filed with the Department
22 on or before the first day of June, whereupon the Department
23 shall proceed to administer and enforce this Section as of the
24 first day of September next following such adoption and filing.
25 Beginning January 1, 1992, an ordinance or resolution imposing
26 or discontinuing the tax hereunder or effecting a change in the

1 rate thereof shall be adopted and a certified copy thereof
2 filed with the Department on or before the first day of July,
3 whereupon the Department shall proceed to administer and
4 enforce this Section as of the first day of October next
5 following such adoption and filing. Beginning January 1, 1993,
6 an ordinance or resolution imposing or discontinuing the tax
7 hereunder or effecting a change in the rate thereof shall be
8 adopted and a certified copy thereof filed with the Department
9 on or before the first day of October, whereupon the Department
10 shall proceed to administer and enforce this Section as of the
11 first day of January next following such adoption and filing.
12 Beginning April 1, 1998, an ordinance or resolution imposing or
13 discontinuing the tax hereunder or effecting a change in the
14 rate thereof shall either (i) be adopted and a certified copy
15 thereof filed with the Department on or before the first day of
16 April, whereupon the Department shall proceed to administer and
17 enforce this Section as of the first day of July next following
18 the adoption and filing; or (ii) be adopted and a certified
19 copy thereof filed with the Department on or before the first
20 day of October, whereupon the Department shall proceed to
21 administer and enforce this Section as of the first day of
22 January next following the adoption and filing.

23 This Section shall be known and may be cited as the Home
24 Rule County Service Occupation Tax Law.

25 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

1 (55 ILCS 5/5-1035 rep.)

2 Section 40. The Counties Code is amended by repealing
3 Section 5-1035.

4 Section 45. The Illinois Municipal Code is amended by
5 changing Sections 8-11-1, 8-11-1.1, 8-11-1.3, 8-11-1.4,
6 8-11-5, and 11-74.3-6 as follows:

7 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

8 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
9 Act. The corporate authorities of a home rule municipality may
10 impose a tax upon all persons engaged in the business of
11 selling tangible personal property, other than an item of
12 tangible personal property titled or registered with an agency
13 of this State's government, at retail in the municipality on
14 the gross receipts from these sales made in the course of such
15 business. If imposed, the tax shall only be imposed in 1/4%
16 increments. On and after September 1, 1991, this additional tax
17 may not be imposed on the sales of food for human consumption
18 that is to be consumed off the premises where it is sold (other
19 than alcoholic beverages, soft drinks and food that has been
20 prepared for immediate consumption) and prescription and
21 nonprescription medicines, drugs, medical appliances,
22 modifications to a motor vehicle for the purpose of rendering
23 it usable by a disabled person, and insulin, urine testing
24 materials, syringes and needles used by diabetics. The tax

1 imposed by a home rule municipality under this Section and all
2 civil penalties that may be assessed as an incident of the tax
3 shall be collected and enforced by the State Department of
4 Revenue. The certificate of registration that is issued by the
5 Department to a retailer under the Retailers' Occupation Tax
6 Act shall permit the retailer to engage in a business that is
7 taxable under any ordinance or resolution enacted pursuant to
8 this Section without registering separately with the
9 Department under such ordinance or resolution or under this
10 Section. The Department shall have full power to administer and
11 enforce this Section; to collect all taxes and penalties due
12 hereunder; to dispose of taxes and penalties so collected in
13 the manner hereinafter provided; and to determine all rights to
14 credit memoranda arising on account of the erroneous payment of
15 tax or penalty hereunder. In the administration of, and
16 compliance with, this Section the Department and persons who
17 are subject to this Section shall have the same rights,
18 remedies, privileges, immunities, powers and duties, and be
19 subject to the same conditions, restrictions, limitations,
20 penalties and definitions of terms, and employ the same modes
21 of procedure, as are prescribed in Sections 1, 1a, 1d, 1e, 1f,
22 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all
23 provisions therein other than the State rate of tax), 2c, 3
24 (except as to the disposition of taxes and penalties
25 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
26 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'

1 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
2 Interest Act, as fully as if those provisions were set forth
3 herein.

4 No tax may be imposed by a home rule municipality under
5 this Section unless the municipality also imposes a tax at the
6 same rate under Section 8-11-5 of this Act.

7 Persons subject to any tax imposed under the authority
8 granted in this Section may reimburse themselves for their
9 seller's tax liability hereunder by separately stating that tax
10 as an additional charge, which charge may be stated in
11 combination, in a single amount, with State tax which sellers
12 are required to collect under the Use Tax Act, pursuant to such
13 bracket schedules as the Department may prescribe.

14 Whenever the Department determines that a refund should be
15 made under this Section to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the order to be drawn for the
18 amount specified and to the person named in the notification
19 from the Department. The refund shall be paid by the State
20 Treasurer out of the home rule municipal retailers' occupation
21 tax fund.

22 The Department shall immediately pay over to the State
23 Treasurer, ex officio, as trustee, all taxes and penalties
24 collected hereunder. On or before the 25th day of each calendar
25 month, the Department shall prepare and certify to the
26 Comptroller the disbursement of stated sums of money to named

1 municipalities, the municipalities to be those from which
2 retailers have paid taxes or penalties hereunder to the
3 Department during the second preceding calendar month. The
4 amount to be paid to each municipality shall be the amount (not
5 including credit memoranda) collected hereunder during the
6 second preceding calendar month by the Department plus an
7 amount the Department determines is necessary to offset any
8 amounts that were erroneously paid to a different taxing body,
9 and not including an amount equal to the amount of refunds made
10 during the second preceding calendar month by the Department on
11 behalf of such municipality, and not including any amount that
12 the Department determines is necessary to offset any amounts
13 that were payable to a different taxing body but were
14 erroneously paid to the municipality. Within 10 days after
15 receipt by the Comptroller of the disbursement certification to
16 the municipalities provided for in this Section to be given to
17 the Comptroller by the Department, the Comptroller shall cause
18 the orders to be drawn for the respective amounts in accordance
19 with the directions contained in the certification.

20 In addition to the disbursement required by the preceding
21 paragraph and in order to mitigate delays caused by
22 distribution procedures, an allocation shall, if requested, be
23 made within 10 days after January 14, 1991, and in November of
24 1991 and each year thereafter, to each municipality that
25 received more than \$500,000 during the preceding fiscal year,
26 (July 1 through June 30) whether collected by the municipality

1 or disbursed by the Department as required by this Section.
2 Within 10 days after January 14, 1991, participating
3 municipalities shall notify the Department in writing of their
4 intent to participate. In addition, for the initial
5 distribution, participating municipalities shall certify to
6 the Department the amounts collected by the municipality for
7 each month under its home rule occupation and service
8 occupation tax during the period July 1, 1989 through June 30,
9 1990. The allocation within 10 days after January 14, 1991,
10 shall be in an amount equal to the monthly average of these
11 amounts, excluding the 2 months of highest receipts. The
12 monthly average for the period of July 1, 1990 through June 30,
13 1991 will be determined as follows: the amounts collected by
14 the municipality under its home rule occupation and service
15 occupation tax during the period of July 1, 1990 through
16 September 30, 1990, plus amounts collected by the Department
17 and paid to such municipality through June 30, 1991, excluding
18 the 2 months of highest receipts. The monthly average for each
19 subsequent period of July 1 through June 30 shall be an amount
20 equal to the monthly distribution made to each such
21 municipality under the preceding paragraph during this period,
22 excluding the 2 months of highest receipts. The distribution
23 made in November 1991 and each year thereafter under this
24 paragraph and the preceding paragraph shall be reduced by the
25 amount allocated and disbursed under this paragraph in the
26 preceding period of July 1 through June 30. The Department

1 shall prepare and certify to the Comptroller for disbursement
2 the allocations made in accordance with this paragraph.

3 For the purpose of determining the local governmental unit
4 whose tax is applicable, a retail sale by a producer of coal or
5 other mineral mined in Illinois is a sale at retail at the
6 place where the coal or other mineral mined in Illinois is
7 extracted from the earth. This paragraph does not apply to coal
8 or other mineral when it is delivered or shipped by the seller
9 to the purchaser at a point outside Illinois so that the sale
10 is exempt under the United States Constitution as a sale in
11 interstate or foreign commerce.

12 Nothing in this Section shall be construed to authorize a
13 municipality to impose a tax upon the privilege of engaging in
14 any business which under the Constitution of the United States
15 may not be made the subject of taxation by this State.

16 An ordinance or resolution imposing or discontinuing a tax
17 hereunder or effecting a change in the rate thereof shall be
18 adopted and a certified copy thereof filed with the Department
19 on or before the first day of June, whereupon the Department
20 shall proceed to administer and enforce this Section as of the
21 first day of September next following the adoption and filing.
22 Beginning January 1, 1992, an ordinance or resolution imposing
23 or discontinuing the tax hereunder or effecting a change in the
24 rate thereof shall be adopted and a certified copy thereof
25 filed with the Department on or before the first day of July,
26 whereupon the Department shall proceed to administer and

1 enforce this Section as of the first day of October next
2 following such adoption and filing. Beginning January 1, 1993,
3 an ordinance or resolution imposing or discontinuing the tax
4 hereunder or effecting a change in the rate thereof shall be
5 adopted and a certified copy thereof filed with the Department
6 on or before the first day of October, whereupon the Department
7 shall proceed to administer and enforce this Section as of the
8 first day of January next following the adoption and filing.
9 However, a municipality located in a county with a population
10 in excess of 3,000,000 that elected to become a home rule unit
11 at the general primary election in 1994 may adopt an ordinance
12 or resolution imposing the tax under this Section and file a
13 certified copy of the ordinance or resolution with the
14 Department on or before July 1, 1994. The Department shall then
15 proceed to administer and enforce this Section as of October 1,
16 1994. Beginning April 1, 1998, an ordinance or resolution
17 imposing or discontinuing the tax hereunder or effecting a
18 change in the rate thereof shall either (i) be adopted and a
19 certified copy thereof filed with the Department on or before
20 the first day of April, whereupon the Department shall proceed
21 to administer and enforce this Section as of the first day of
22 July next following the adoption and filing; or (ii) be adopted
23 and a certified copy thereof filed with the Department on or
24 before the first day of October, whereupon the Department shall
25 proceed to administer and enforce this Section as of the first
26 day of January next following the adoption and filing.

1 When certifying the amount of a monthly disbursement to a
2 municipality under this Section, the Department shall increase
3 or decrease the amount by an amount necessary to offset any
4 misallocation of previous disbursements. The offset amount
5 shall be the amount erroneously disbursed within the previous 6
6 months from the time a misallocation is discovered.

7 Any unobligated balance remaining in the Municipal
8 Retailers' Occupation Tax Fund on December 31, 1989, which fund
9 was abolished by Public Act 85-1135, and all receipts of
10 municipal tax as a result of audits of liability periods prior
11 to January 1, 1990, shall be paid into the Local Government Tax
12 Fund for distribution as provided by this Section prior to the
13 enactment of Public Act 85-1135. All receipts of municipal tax
14 as a result of an assessment not arising from an audit, for
15 liability periods prior to January 1, 1990, shall be paid into
16 the Local Government Tax Fund for distribution before July 1,
17 1990, as provided by this Section prior to the enactment of
18 Public Act 85-1135; and on and after July 1, 1990, all such
19 receipts shall be distributed as provided in Section 6z-18 of
20 the State Finance Act.

21 As used in this Section, "municipal" and "municipality"
22 means a city, village or incorporated town, including an
23 incorporated town that has superseded a civil township.

24 This Section shall be known and may be cited as the Home
25 Rule Municipal Retailers' Occupation Tax Act.

26 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

1 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

2 Sec. 8-11-1.1. Non-home rule municipalities; imposition of
3 taxes.

4 (a) The corporate authorities of a non-home rule
5 municipality may, upon approval of the electors of the
6 municipality pursuant to subsection (b) of this Section, impose
7 by ordinance or resolution the tax authorized in Sections
8 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

9 (b) The corporate authorities of the municipality may by
10 ordinance or resolution call for the submission to the electors
11 of the municipality the question of whether the municipality
12 shall impose such tax. Such question shall be certified by the
13 municipal clerk to the election authority in accordance with
14 Section 28-5 of the Election Code and shall be in a form in
15 accordance with Section 16-7 of the Election Code.

16 The proposition for the imposition of the non-home rule
17 municipal retailers' occupation tax and non-home rule
18 municipal service occupation tax shall be in substantially the
19 following form:

20 "Shall (insert name of municipality) impose a Non-Home
21 Rule Municipal Retailers' Occupation Tax and Non-Home Rule
22 Municipal Service Occupation Tax at the rate of (insert
23 rate) to be used by the municipality (choose one: [for
24 expenditure on public infrastructure] [for property tax
25 relief] [for expenditure on public infrastructure and for

1 property tax relief]) as provided in Sections 8-11-1.1,
2 8-11-1.2, 8-11-1.3, and 8-11-1.4 of the Illinois Municipal
3 Code?"

4 The votes shall be recorded as "Yes" or "No".

5 If, in addition to the non-home rule municipal retailers'
6 occupation tax and non-home rule municipal service occupation
7 tax, a municipality opts to impose a non-home rule municipal
8 use tax on titled or registered vehicles as provided in Section
9 8-11-1.5, which tax must be administered and collected by the
10 municipality itself, the proposition above shall also include a
11 reference to the Non-Home Rule Municipal Use Tax and a
12 reference to Section 8-11-1.5 of the Illinois Municipal Code.

13 If a majority of the electors in the municipality voting
14 upon the question vote in the affirmative, such tax shall be
15 imposed.

16 An ordinance or resolution imposing the tax of not more
17 than 1% hereunder or discontinuing the same shall be adopted
18 and a certified copy thereof, together with a certification
19 that the ordinance or resolution received referendum approval
20 in the case of the imposition of such tax, filed with the
21 Department of Revenue, on or before the first day of June,
22 whereupon the Department shall proceed to administer and
23 enforce the additional tax or to discontinue the tax, as the
24 case may be, as of the first day of September next following
25 such adoption and filing. Beginning January 1, 1992, an
26 ordinance or resolution imposing or discontinuing the tax

1 hereunder shall be adopted and a certified copy thereof filed
2 with the Department on or before the first day of July,
3 whereupon the Department shall proceed to administer and
4 enforce this Section as of the first day of October next
5 following such adoption and filing. Beginning January 1, 1993,
6 an ordinance or resolution imposing or discontinuing the tax
7 hereunder shall be adopted and a certified copy thereof filed
8 with the Department on or before the first day of October,
9 whereupon the Department shall proceed to administer and
10 enforce this Section as of the first day of January next
11 following such adoption and filing. Beginning October 1, 2002,
12 an ordinance or resolution imposing or discontinuing the tax
13 under this Section or effecting a change in the rate of tax
14 must either (i) be adopted and a certified copy of the
15 ordinance or resolution filed with the Department on or before
16 the first day of April, whereupon the Department shall proceed
17 to administer and enforce this Section as of the first day of
18 July next following the adoption and filing; or (ii) be adopted
19 and a certified copy of the ordinance or resolution filed with
20 the Department on or before the first day of October, whereupon
21 the Department shall proceed to administer and enforce this
22 Section as of the first day of January next following the
23 adoption and filing.

24 Notwithstanding any provision in this Section to the
25 contrary, if, in a non-home rule municipality with more than
26 150,000 but fewer than 200,000 inhabitants, as determined by

1 the last preceding federal decennial census, an ordinance or
2 resolution under this Section imposes or discontinues a tax or
3 changes the tax rate as of July 1, 2007, then that ordinance or
4 resolution, together with a certification that the ordinance or
5 resolution received referendum approval in the case of the
6 imposition of the tax, must be adopted and a certified copy of
7 that ordinance or resolution must be filed with the Department
8 on or before May 15, 2007, whereupon the Department shall
9 proceed to administer and enforce this Section as of July 1,
10 2007.

11 A non-home rule municipality may file a certified copy of
12 an ordinance or resolution, with a certification that the
13 ordinance or resolution received referendum approval in the
14 case of the imposition of the tax, with the Department of
15 Revenue, as required under this Section, only after October 2,
16 2000.

17 The tax authorized by this Section may not be more than 1%
18 and may be imposed only in 1/4% increments.

19 (Source: P.A. 94-679, eff. 1-1-06; 95-8, eff. 6-29-07.)

20 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

21 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
22 Occupation Tax Act. The corporate authorities of a non-home
23 rule municipality may impose a tax upon all persons engaged in
24 the business of selling tangible personal property, other than
25 on an item of tangible personal property which is titled and

1 registered by an agency of this State's Government, at retail
2 in the municipality for expenditure on public infrastructure or
3 for property tax relief or both as defined in Section 8-11-1.2
4 if approved by referendum as provided in Section 8-11-1.1, of
5 the gross receipts from such sales made in the course of such
6 business. The tax imposed may not be more than 1% and may be
7 imposed only in 1/4% increments. The tax may not be imposed on
8 the sale of food for human consumption that is to be consumed
9 off the premises where it is sold (other than alcoholic
10 beverages, soft drinks, and food that has been prepared for
11 immediate consumption) and prescription and nonprescription
12 medicines, drugs, medical appliances, modifications to a motor
13 vehicle for the purpose of rendering it usable by a disabled
14 person, and insulin, urine testing materials, syringes, and
15 needles used by diabetics. The tax imposed by a municipality
16 pursuant to this Section and all civil penalties that may be
17 assessed as an incident thereof shall be collected and enforced
18 by the State Department of Revenue. The certificate of
19 registration which is issued by the Department to a retailer
20 under the Retailers' Occupation Tax Act shall permit such
21 retailer to engage in a business which is taxable under any
22 ordinance or resolution enacted pursuant to this Section
23 without registering separately with the Department under such
24 ordinance or resolution or under this Section. The Department
25 shall have full power to administer and enforce this Section;
26 to collect all taxes and penalties due hereunder; to dispose of

1 taxes and penalties so collected in the manner hereinafter
2 provided, and to determine all rights to credit memoranda,
3 arising on account of the erroneous payment of tax or penalty
4 hereunder. In the administration of, and compliance with, this
5 Section, the Department and persons who are subject to this
6 Section shall have the same rights, remedies, privileges,
7 immunities, powers and duties, and be subject to the same
8 conditions, restrictions, limitations, penalties and
9 definitions of terms, and employ the same modes of procedure,
10 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
11 2 through 2-65 (in respect to all provisions therein other than
12 the State rate of tax), 2c, 3 (except as to the disposition of
13 taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,
14 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and
15 13 of the Retailers' Occupation Tax Act and Section 3-7 of the
16 Uniform Penalty and Interest Act as fully as if those
17 provisions were set forth herein.

18 No municipality may impose a tax under this Section unless
19 the municipality also imposes a tax at the same rate under
20 Section 8-11-1.4 of this Code.

21 Persons subject to any tax imposed pursuant to the
22 authority granted in this Section may reimburse themselves for
23 their seller's tax liability hereunder by separately stating
24 such tax as an additional charge, which charge may be stated in
25 combination, in a single amount, with State tax which sellers
26 are required to collect under the Use Tax Act, pursuant to such

1 bracket schedules as the Department may prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing a
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the order to be drawn for the
6 amount specified, and to the person named, in such notification
7 from the Department. Such refund shall be paid by the State
8 Treasurer out of the non-home rule municipal retailers'
9 occupation tax fund.

10 The Department shall forthwith pay over to the State
11 Treasurer, ex officio, as trustee, all taxes and penalties
12 collected hereunder. On or before the 25th day of each calendar
13 month, the Department shall prepare and certify to the
14 Comptroller the disbursement of stated sums of money to named
15 municipalities, the municipalities to be those from which
16 retailers have paid taxes or penalties hereunder to the
17 Department during the second preceding calendar month. The
18 amount to be paid to each municipality shall be the amount (not
19 including credit memoranda) collected hereunder during the
20 second preceding calendar month by the Department plus an
21 amount the Department determines is necessary to offset any
22 amounts which were erroneously paid to a different taxing body,
23 and not including an amount equal to the amount of refunds made
24 during the second preceding calendar month by the Department on
25 behalf of such municipality, and not including any amount which
26 the Department determines is necessary to offset any amounts

1 which were payable to a different taxing body but were
2 erroneously paid to the municipality. Within 10 days after
3 receipt, by the Comptroller, of the disbursement certification
4 to the municipalities, provided for in this Section to be given
5 to the Comptroller by the Department, the Comptroller shall
6 cause the orders to be drawn for the respective amounts in
7 accordance with the directions contained in such
8 certification.

9 For the purpose of determining the local governmental unit
10 whose tax is applicable, a retail sale, by a producer of coal
11 or other mineral mined in Illinois, is a sale at retail at the
12 place where the coal or other mineral mined in Illinois is
13 extracted from the earth. This paragraph does not apply to coal
14 or other mineral when it is delivered or shipped by the seller
15 to the purchaser at a point outside Illinois so that the sale
16 is exempt under the Federal Constitution as a sale in
17 interstate or foreign commerce.

18 Nothing in this Section shall be construed to authorize a
19 municipality to impose a tax upon the privilege of engaging in
20 any business which under the constitution of the United States
21 may not be made the subject of taxation by this State.

22 When certifying the amount of a monthly disbursement to a
23 municipality under this Section, the Department shall increase
24 or decrease such amount by an amount necessary to offset any
25 misallocation of previous disbursements. The offset amount
26 shall be the amount erroneously disbursed within the previous 6

1 months from the time a misallocation is discovered.

2 The Department of Revenue shall implement this amendatory
3 Act of the 91st General Assembly so as to collect the tax on
4 and after January 1, 2002.

5 As used in this Section, "municipal" and "municipality"
6 means a city, village or incorporated town, including an
7 incorporated town which has superseded a civil township.

8 This Section shall be known and may be cited as the
9 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

10 (Source: P.A. 94-679, eff. 1-1-06.)

11 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

12 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
13 Tax Act. The corporate authorities of a non-home rule
14 municipality may impose a tax upon all persons engaged, in such
15 municipality, in the business of making sales of service for
16 expenditure on public infrastructure or for property tax relief
17 or both as defined in Section 8-11-1.2 if approved by
18 referendum as provided in Section 8-11-1.1, of the selling
19 price of all tangible personal property transferred by such
20 servicemen either in the form of tangible personal property or
21 in the form of real estate as an incident to a sale of service.
22 The tax imposed may not be more than 1% and may be imposed only
23 in 1/4% increments. The tax may not be imposed on the sale of
24 food for human consumption that is to be consumed off the
25 premises where it is sold (other than alcoholic beverages, soft

1 drinks, and food that has been prepared for immediate
2 consumption) and prescription and nonprescription medicines,
3 drugs, medical appliances, modifications to a motor vehicle for
4 the purpose of rendering it usable by a disabled person, and
5 insulin, urine testing materials, syringes, and needles used by
6 diabetics. The tax imposed by a municipality pursuant to this
7 Section and all civil penalties that may be assessed as an
8 incident thereof shall be collected and enforced by the State
9 Department of Revenue. The certificate of registration which is
10 issued by the Department to a retailer under the Retailers'
11 Occupation Tax Act or under the Service Occupation Tax Act
12 shall permit such registrant to engage in a business which is
13 taxable under any ordinance or resolution enacted pursuant to
14 this Section without registering separately with the
15 Department under such ordinance or resolution or under this
16 Section. The Department shall have full power to administer and
17 enforce this Section; to collect all taxes and penalties due
18 hereunder; to dispose of taxes and penalties so collected in
19 the manner hereinafter provided, and to determine all rights to
20 credit memoranda arising on account of the erroneous payment of
21 tax or penalty hereunder. In the administration of, and
22 compliance with, this Section the Department and persons who
23 are subject to this Section shall have the same rights,
24 remedies, privileges, immunities, powers and duties, and be
25 subject to the same conditions, restrictions, limitations,
26 penalties and definitions of terms, and employ the same modes

1 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
2 through 3-50 (in respect to all provisions therein other than
3 the State rate of tax), 4 (except that the reference to the
4 State shall be to the taxing municipality), 5, 7, 8 (except
5 that the jurisdiction to which the tax shall be a debt to the
6 extent indicated in that Section 8 shall be the taxing
7 municipality), 9 (except as to the disposition of taxes and
8 penalties collected, and except that the returned merchandise
9 credit for this municipal tax may not be taken against any
10 State tax), 10, 11, 12 (except the reference therein to Section
11 2b of the Retailers' Occupation Tax Act), 13 (except that any
12 reference to the State shall mean the taxing municipality), the
13 first paragraph of Section 15, 16, 17, 18, 19 and 20 of the
14 Service Occupation Tax Act and Section 3-7 of the Uniform
15 Penalty and Interest Act, as fully as if those provisions were
16 set forth herein.

17 No municipality may impose a tax under this Section unless
18 the municipality also imposes a tax at the same rate under
19 Section 8-11-1.3 of this Code.

20 Persons subject to any tax imposed pursuant to the
21 authority granted in this Section may reimburse themselves for
22 their serviceman's tax liability hereunder by separately
23 stating such tax as an additional charge, which charge may be
24 stated in combination, in a single amount, with State tax which
25 servicemen are authorized to collect under the Service Use Tax
26 Act, pursuant to such bracket schedules as the Department may

1 prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing credit
4 memorandum, the Department shall notify the State Comptroller,
5 who shall cause the order to be drawn for the amount specified,
6 and to the person named, in such notification from the
7 Department. Such refund shall be paid by the State Treasurer
8 out of the municipal retailers' occupation tax fund.

9 The Department shall forthwith pay over to the State
10 Treasurer, ex officio, as trustee, all taxes and penalties
11 collected hereunder. On or before the 25th day of each calendar
12 month, the Department shall prepare and certify to the
13 Comptroller the disbursement of stated sums of money to named
14 municipalities, the municipalities to be those from which
15 suppliers and servicemen have paid taxes or penalties hereunder
16 to the Department during the second preceding calendar month.
17 The amount to be paid to each municipality shall be the amount
18 (not including credit memoranda) collected hereunder during
19 the second preceding calendar month by the Department, and not
20 including an amount equal to the amount of refunds made during
21 the second preceding calendar month by the Department on behalf
22 of such municipality. Within 10 days after receipt, by the
23 Comptroller, of the disbursement certification to the
24 municipalities and the General Revenue Fund, provided for in
25 this Section to be given to the Comptroller by the Department,
26 the Comptroller shall cause the orders to be drawn for the

1 respective amounts in accordance with the directions contained
2 in such certification.

3 The Department of Revenue shall implement this amendatory
4 Act of the 91st General Assembly so as to collect the tax on
5 and after January 1, 2002.

6 Nothing in this Section shall be construed to authorize a
7 municipality to impose a tax upon the privilege of engaging in
8 any business which under the constitution of the United States
9 may not be made the subject of taxation by this State.

10 As used in this Section, "municipal" or "municipality"
11 means or refers to a city, village or incorporated town,
12 including an incorporated town which has superseded a civil
13 township.

14 This Section shall be known and may be cited as the
15 "Non-Home Rule Municipal Service Occupation Tax Act".

16 (Source: P.A. 94-679, eff. 1-1-06.)

17 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

18 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
19 Act. The corporate authorities of a home rule municipality may
20 impose a tax upon all persons engaged, in such municipality, in
21 the business of making sales of service at the same rate of tax
22 imposed pursuant to Section 8-11-1, of the selling price of all
23 tangible personal property transferred by such servicemen
24 either in the form of tangible personal property or in the form
25 of real estate as an incident to a sale of service. If imposed,

1 such tax shall only be imposed in 1/4% increments. On and after
2 September 1, 1991, this additional tax may not be imposed on
3 the sales of food for human consumption which is to be consumed
4 off the premises where it is sold (other than alcoholic
5 beverages, soft drinks and food which has been prepared for
6 immediate consumption) and prescription and nonprescription
7 medicines, drugs, medical appliances, modifications to a motor
8 vehicle for the purpose of rendering it usable by a disabled
9 person, and insulin, urine testing materials, syringes and
10 needles used by diabetics. The tax imposed by a home rule
11 municipality pursuant to this Section and all civil penalties
12 that may be assessed as an incident thereof shall be collected
13 and enforced by the State Department of Revenue. The
14 certificate of registration which is issued by the Department
15 to a retailer under the Retailers' Occupation Tax Act or under
16 the Service Occupation Tax Act shall permit such registrant to
17 engage in a business which is taxable under any ordinance or
18 resolution enacted pursuant to this Section without
19 registering separately with the Department under such
20 ordinance or resolution or under this Section. The Department
21 shall have full power to administer and enforce this Section;
22 to collect all taxes and penalties due hereunder; to dispose of
23 taxes and penalties so collected in the manner hereinafter
24 provided, and to determine all rights to credit memoranda
25 arising on account of the erroneous payment of tax or penalty
26 hereunder. In the administration of, and compliance with, this

1 Section the Department and persons who are subject to this
2 Section shall have the same rights, remedies, privileges,
3 immunities, powers and duties, and be subject to the same
4 conditions, restrictions, limitations, penalties and
5 definitions of terms, and employ the same modes of procedure,
6 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
7 respect to all provisions therein other than the State rate of
8 tax), 4 (except that the reference to the State shall be to the
9 taxing municipality), 5, 7, 8 (except that the jurisdiction to
10 which the tax shall be a debt to the extent indicated in that
11 Section 8 shall be the taxing municipality), 9 (except as to
12 the disposition of taxes and penalties collected, and except
13 that the returned merchandise credit for this municipal tax may
14 not be taken against any State tax), 10, 11, 12 (except the
15 reference therein to Section 2b of the Retailers' Occupation
16 Tax Act), 13 (except that any reference to the State shall mean
17 the taxing municipality), the first paragraph of Section 15,
18 16, 17 (except that credit memoranda issued hereunder may not
19 be used to discharge any State tax liability), 18, 19 and 20 of
20 the Service Occupation Tax Act and Section 3-7 of the Uniform
21 Penalty and Interest Act, as fully as if those provisions were
22 set forth herein.

23 No tax may be imposed by a home rule municipality pursuant
24 to this Section unless such municipality also imposes a tax at
25 the same rate pursuant to Section 8-11-1 of this Act.

26 Persons subject to any tax imposed pursuant to the

1 authority granted in this Section may reimburse themselves for
2 their serviceman's tax liability hereunder by separately
3 stating such tax as an additional charge, which charge may be
4 stated in combination, in a single amount, with State tax which
5 servicemen are authorized to collect under the Service Use Tax
6 Act, pursuant to such bracket schedules as the Department may
7 prescribe.

8 Whenever the Department determines that a refund should be
9 made under this Section to a claimant instead of issuing credit
10 memorandum, the Department shall notify the State Comptroller,
11 who shall cause the order to be drawn for the amount specified,
12 and to the person named, in such notification from the
13 Department. Such refund shall be paid by the State Treasurer
14 out of the home rule municipal retailers' occupation tax fund.

15 The Department shall forthwith pay over to the State
16 Treasurer, ex-officio, as trustee, all taxes and penalties
17 collected hereunder. On or before the 25th day of each calendar
18 month, the Department shall prepare and certify to the
19 Comptroller the disbursement of stated sums of money to named
20 municipalities, the municipalities to be those from which
21 suppliers and servicemen have paid taxes or penalties hereunder
22 to the Department during the second preceding calendar month.
23 The amount to be paid to each municipality shall be the amount
24 (not including credit memoranda) collected hereunder during
25 the second preceding calendar month by the Department, and not
26 including an amount equal to the amount of refunds made during

1 the second preceding calendar month by the Department on behalf
2 of such municipality. Within 10 days after receipt, by the
3 Comptroller, of the disbursement certification to the
4 municipalities, provided for in this Section to be given to the
5 Comptroller by the Department, the Comptroller shall cause the
6 orders to be drawn for the respective amounts in accordance
7 with the directions contained in such certification.

8 In addition to the disbursement required by the preceding
9 paragraph and in order to mitigate delays caused by
10 distribution procedures, an allocation shall, if requested, be
11 made within 10 days after January 14, 1991, and in November of
12 1991 and each year thereafter, to each municipality that
13 received more than \$500,000 during the preceding fiscal year,
14 (July 1 through June 30) whether collected by the municipality
15 or disbursed by the Department as required by this Section.
16 Within 10 days after January 14, 1991, participating
17 municipalities shall notify the Department in writing of their
18 intent to participate. In addition, for the initial
19 distribution, participating municipalities shall certify to
20 the Department the amounts collected by the municipality for
21 each month under its home rule occupation and service
22 occupation tax during the period July 1, 1989 through June 30,
23 1990. The allocation within 10 days after January 14, 1991,
24 shall be in an amount equal to the monthly average of these
25 amounts, excluding the 2 months of highest receipts. Monthly
26 average for the period of July 1, 1990 through June 30, 1991

1 will be determined as follows: the amounts collected by the
2 municipality under its home rule occupation and service
3 occupation tax during the period of July 1, 1990 through
4 September 30, 1990, plus amounts collected by the Department
5 and paid to such municipality through June 30, 1991, excluding
6 the 2 months of highest receipts. The monthly average for each
7 subsequent period of July 1 through June 30 shall be an amount
8 equal to the monthly distribution made to each such
9 municipality under the preceding paragraph during this period,
10 excluding the 2 months of highest receipts. The distribution
11 made in November 1991 and each year thereafter under this
12 paragraph and the preceding paragraph shall be reduced by the
13 amount allocated and disbursed under this paragraph in the
14 preceding period of July 1 through June 30. The Department
15 shall prepare and certify to the Comptroller for disbursement
16 the allocations made in accordance with this paragraph.

17 Nothing in this Section shall be construed to authorize a
18 municipality to impose a tax upon the privilege of engaging in
19 any business which under the constitution of the United States
20 may not be made the subject of taxation by this State.

21 An ordinance or resolution imposing or discontinuing a tax
22 hereunder or effecting a change in the rate thereof shall be
23 adopted and a certified copy thereof filed with the Department
24 on or before the first day of June, whereupon the Department
25 shall proceed to administer and enforce this Section as of the
26 first day of September next following such adoption and filing.

1 Beginning January 1, 1992, an ordinance or resolution imposing
2 or discontinuing the tax hereunder or effecting a change in the
3 rate thereof shall be adopted and a certified copy thereof
4 filed with the Department on or before the first day of July,
5 whereupon the Department shall proceed to administer and
6 enforce this Section as of the first day of October next
7 following such adoption and filing. Beginning January 1, 1993,
8 an ordinance or resolution imposing or discontinuing the tax
9 hereunder or effecting a change in the rate thereof shall be
10 adopted and a certified copy thereof filed with the Department
11 on or before the first day of October, whereupon the Department
12 shall proceed to administer and enforce this Section as of the
13 first day of January next following such adoption and filing.
14 However, a municipality located in a county with a population
15 in excess of 3,000,000 that elected to become a home rule unit
16 at the general primary election in 1994 may adopt an ordinance
17 or resolution imposing the tax under this Section and file a
18 certified copy of the ordinance or resolution with the
19 Department on or before July 1, 1994. The Department shall then
20 proceed to administer and enforce this Section as of October 1,
21 1994. Beginning April 1, 1998, an ordinance or resolution
22 imposing or discontinuing the tax hereunder or effecting a
23 change in the rate thereof shall either (i) be adopted and a
24 certified copy thereof filed with the Department on or before
25 the first day of April, whereupon the Department shall proceed
26 to administer and enforce this Section as of the first day of

1 July next following the adoption and filing; or (ii) be adopted
2 and a certified copy thereof filed with the Department on or
3 before the first day of October, whereupon the Department shall
4 proceed to administer and enforce this Section as of the first
5 day of January next following the adoption and filing.

6 Any unobligated balance remaining in the Municipal
7 Retailers' Occupation Tax Fund on December 31, 1989, which fund
8 was abolished by Public Act 85-1135, and all receipts of
9 municipal tax as a result of audits of liability periods prior
10 to January 1, 1990, shall be paid into the Local Government Tax
11 Fund, for distribution as provided by this Section prior to the
12 enactment of Public Act 85-1135. All receipts of municipal tax
13 as a result of an assessment not arising from an audit, for
14 liability periods prior to January 1, 1990, shall be paid into
15 the Local Government Tax Fund for distribution before July 1,
16 1990, as provided by this Section prior to the enactment of
17 Public Act 85-1135, and on and after July 1, 1990, all such
18 receipts shall be distributed as provided in Section 6z-18 of
19 the State Finance Act.

20 As used in this Section, "municipal" and "municipality"
21 means a city, village or incorporated town, including an
22 incorporated town which has superseded a civil township.

23 This Section shall be known and may be cited as the Home
24 Rule Municipal Service Occupation Tax Act.

25 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

1 (65 ILCS 5/11-74.3-6)

2 Sec. 11-74.3-6. Business district revenue and obligations.

3 (a) If the corporate authorities of a municipality have
4 approved a business district development or redevelopment plan
5 and have elected to impose a tax by ordinance pursuant to
6 subsections (b), (c), or (d) of this Section, each year after
7 the date of the approval of the ordinance and until all
8 business district project costs and all municipal obligations
9 financing the business district project costs, if any, have
10 been paid in accordance with the business district development
11 or redevelopment plan, but in no event longer than 23 years
12 after the date of adoption of the ordinance approving the
13 business district development or redevelopment plan, all
14 amounts generated by the retailers' occupation tax and service
15 occupation tax shall be collected and the tax shall be enforced
16 by the Department of Revenue in the same manner as all
17 retailers' occupation taxes and service occupation taxes
18 imposed in the municipality imposing the tax and all amounts
19 generated by the hotel operators' occupation tax shall be
20 collected and the tax shall be enforced by the municipality in
21 the same manner as all hotel operators' occupation taxes
22 imposed in the municipality imposing the tax. The corporate
23 authorities of the municipality shall deposit the proceeds of
24 the taxes imposed under subsections (b), (c), and (d) into a
25 special fund held by the corporate authorities of the
26 municipality called the Business District Tax Allocation Fund

1 for the purpose of paying business district project costs and
2 obligations incurred in the payment of those costs.

3 (b) The corporate authorities of a municipality that has
4 established a business district under this Division 74.3 may,
5 by ordinance or resolution, impose a Business District
6 Retailers' Occupation Tax upon all persons engaged in the
7 business of selling tangible personal property, other than an
8 item of tangible personal property titled or registered with an
9 agency of this State's government, at retail in the business
10 district at a rate not to exceed 1% of the gross receipts from
11 the sales made in the course of such business, to be imposed
12 only in 0.25% increments. The tax may not be imposed on food
13 for human consumption that is to be consumed off the premises
14 where it is sold (other than alcoholic beverages, soft drinks,
15 and food that has been prepared for immediate consumption),
16 prescription and nonprescription medicines, drugs, medical
17 appliances, modifications to a motor vehicle for the purpose of
18 rendering it usable by a disabled person, and insulin, urine
19 testing materials, syringes, and needles used by diabetics, for
20 human use.

21 The tax imposed under this subsection and all civil
22 penalties that may be assessed as an incident thereof shall be
23 collected and enforced by the Department of Revenue. The
24 certificate of registration that is issued by the Department to
25 a retailer under the Retailers' Occupation Tax Act shall permit
26 the retailer to engage in a business that is taxable under any

1 ordinance or resolution enacted pursuant to this subsection
2 without registering separately with the Department under such
3 ordinance or resolution or under this subsection. The
4 Department of Revenue shall have full power to administer and
5 enforce this subsection; to collect all taxes and penalties due
6 under this subsection in the manner hereinafter provided; and
7 to determine all rights to credit memoranda arising on account
8 of the erroneous payment of tax or penalty under this
9 subsection. In the administration of, and compliance with, this
10 subsection, the Department and persons who are subject to this
11 subsection shall have the same rights, remedies, privileges,
12 immunities, powers and duties, and be subject to the same
13 conditions, restrictions, limitations, penalties, exclusions,
14 exemptions, and definitions of terms and employ the same modes
15 of procedure, as are prescribed in Sections 1, 1a through 1o, 2
16 through 2-65 (in respect to all provisions therein other than
17 the State rate of tax), 2c through 2h, 3 (except as to the
18 disposition of taxes and penalties collected), 4, 5, 5a, 5c,
19 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,
20 12, 13, and 14 of the Retailers' Occupation Tax Act and all
21 provisions of the Uniform Penalty and Interest Act, as fully as
22 if those provisions were set forth herein.

23 Persons subject to any tax imposed under this subsection
24 may reimburse themselves for their seller's tax liability under
25 this subsection by separately stating the tax as an additional
26 charge, which charge may be stated in combination, in a single

1 amount, with State taxes that sellers are required to collect
2 under the Use Tax Act, in accordance with such bracket
3 schedules as the Department may prescribe.

4 Whenever the Department determines that a refund should be
5 made under this subsection to a claimant instead of issuing a
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the order to be drawn for the
8 amount specified and to the person named in the notification
9 from the Department. The refund shall be paid by the State
10 Treasurer out of the business district retailers' occupation
11 tax fund.

12 The Department shall immediately pay over to the State
13 Treasurer, ex officio, as trustee, all taxes, penalties, and
14 interest collected under this subsection for deposit into the
15 business district retailers' occupation tax fund. On or before
16 the 25th day of each calendar month, the Department shall
17 prepare and certify to the Comptroller the disbursement of
18 stated sums of money to named municipalities from the business
19 district retailers' occupation tax fund, the municipalities to
20 be those from which retailers have paid taxes or penalties
21 under this subsection to the Department during the second
22 preceding calendar month. The amount to be paid to each
23 municipality shall be the amount (not including credit
24 memoranda) collected under this subsection during the second
25 preceding calendar month by the Department plus an amount the
26 Department determines is necessary to offset any amounts that

1 were erroneously paid to a different taxing body, and not
2 including an amount equal to the amount of refunds made during
3 the second preceding calendar month by the Department, less 2%
4 of that amount, which shall be deposited into the Tax
5 Compliance and Administration Fund and shall be used by the
6 Department, subject to appropriation, to cover the costs of the
7 Department in administering and enforcing the provisions of
8 this subsection, on behalf of such municipality, and not
9 including any amount that the Department determines is
10 necessary to offset any amounts that were payable to a
11 different taxing body but were erroneously paid to the
12 municipality. Within 10 days after receipt by the Comptroller
13 of the disbursement certification to the municipalities
14 provided for in this subsection to be given to the Comptroller
15 by the Department, the Comptroller shall cause the orders to be
16 drawn for the respective amounts in accordance with the
17 directions contained in the certification. The proceeds of the
18 tax paid to municipalities under this subsection shall be
19 deposited into the Business District Tax Allocation Fund by the
20 municipality.

21 An ordinance or resolution imposing or discontinuing the
22 tax under this subsection or effecting a change in the rate
23 thereof shall either (i) be adopted and a certified copy
24 thereof filed with the Department on or before the first day of
25 April, whereupon the Department, if all other requirements of
26 this subsection are met, shall proceed to administer and

1 enforce this subsection as of the first day of July next
2 following the adoption and filing; or (ii) be adopted and a
3 certified copy thereof filed with the Department on or before
4 the first day of October, whereupon, if all other requirements
5 of this subsection are met, the Department shall proceed to
6 administer and enforce this subsection as of the first day of
7 January next following the adoption and filing.

8 The Department of Revenue shall not administer or enforce
9 an ordinance imposing, discontinuing, or changing the rate of
10 the tax under this subsection, until the municipality also
11 provides, in the manner prescribed by the Department, the
12 boundaries of the business district and each address in the
13 business district in such a way that the Department can
14 determine by its address whether a business is located in the
15 business district. The municipality must provide this boundary
16 and address information to the Department on or before April 1
17 for administration and enforcement of the tax under this
18 subsection by the Department beginning on the following July 1
19 and on or before October 1 for administration and enforcement
20 of the tax under this subsection by the Department beginning on
21 the following January 1. The Department of Revenue shall not
22 administer or enforce any change made to the boundaries of a
23 business district or any address change, addition, or deletion
24 until the municipality reports the boundary change or address
25 change, addition, or deletion to the Department in the manner
26 prescribed by the Department. The municipality must provide

1 this boundary change information or address change, addition,
2 or deletion to the Department on or before April 1 for
3 administration and enforcement by the Department of the change
4 beginning on the following July 1 and on or before October 1
5 for administration and enforcement by the Department of the
6 change beginning on the following January 1. The retailers in
7 the business district shall be responsible for charging the tax
8 imposed under this subsection. If a retailer is incorrectly
9 included or excluded from the list of those required to collect
10 the tax under this subsection, both the Department of Revenue
11 and the retailer shall be held harmless if they reasonably
12 relied on information provided by the municipality.

13 A municipality that imposes the tax under this subsection
14 must submit to the Department of Revenue any other information
15 as the Department may require for the administration and
16 enforcement of the tax.

17 When certifying the amount of a monthly disbursement to a
18 municipality under this subsection, the Department shall
19 increase or decrease the amount by an amount necessary to
20 offset any misallocation of previous disbursements. The offset
21 amount shall be the amount erroneously disbursed within the
22 previous 6 months from the time a misallocation is discovered.

23 Nothing in this subsection shall be construed to authorize
24 the municipality to impose a tax upon the privilege of engaging
25 in any business which under the Constitution of the United
26 States may not be made the subject of taxation by this State.

1 If a tax is imposed under this subsection (b), a tax shall
2 also be imposed under subsection (c) of this Section.

3 (c) If a tax has been imposed under subsection (b), a
4 Business District Service Occupation Tax shall also be imposed
5 upon all persons engaged, in the business district, in the
6 business of making sales of service, who, as an incident to
7 making those sales of service, transfer tangible personal
8 property within the business district, either in the form of
9 tangible personal property or in the form of real estate as an
10 incident to a sale of service. The tax shall be imposed at the
11 same rate as the tax imposed in subsection (b) and shall not
12 exceed 1% of the selling price of tangible personal property so
13 transferred within the business district, to be imposed only in
14 0.25% increments. The tax may not be imposed on food for human
15 consumption that is to be consumed off the premises where it is
16 sold (other than alcoholic beverages, soft drinks, and food
17 that has been prepared for immediate consumption),
18 prescription and nonprescription medicines, drugs, medical
19 appliances, modifications to a motor vehicle for the purpose of
20 rendering it usable by a disabled person, and insulin, urine
21 testing materials, syringes, and needles used by diabetics, for
22 human use.

23 The tax imposed under this subsection and all civil
24 penalties that may be assessed as an incident thereof shall be
25 collected and enforced by the Department of Revenue. The
26 certificate of registration which is issued by the Department

1 to a retailer under the Retailers' Occupation Tax Act or under
2 the Service Occupation Tax Act shall permit such registrant to
3 engage in a business which is taxable under any ordinance or
4 resolution enacted pursuant to this subsection without
5 registering separately with the Department under such
6 ordinance or resolution or under this subsection. The
7 Department of Revenue shall have full power to administer and
8 enforce this subsection; to collect all taxes and penalties due
9 under this subsection; to dispose of taxes and penalties so
10 collected in the manner hereinafter provided; and to determine
11 all rights to credit memoranda arising on account of the
12 erroneous payment of tax or penalty under this subsection. In
13 the administration of, and compliance with this subsection, the
14 Department and persons who are subject to this subsection shall
15 have the same rights, remedies, privileges, immunities, powers
16 and duties, and be subject to the same conditions,
17 restrictions, limitations, penalties, exclusions, exemptions,
18 and definitions of terms and employ the same modes of procedure
19 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50
20 (in respect to all provisions therein other than the State rate
21 of tax), 4 (except that the reference to the State shall be to
22 the business district), 5, 7, 8 (except that the jurisdiction
23 to which the tax shall be a debt to the extent indicated in
24 that Section 8 shall be the municipality), 9 (except as to the
25 disposition of taxes and penalties collected, and except that
26 the returned merchandise credit for this tax may not be taken

1 against any State tax), 10, 11, 12 (except the reference
2 therein to Section 2b of the Retailers' Occupation Tax Act), 13
3 (except that any reference to the State shall mean the
4 municipality), the first paragraph of Section 15, and Sections
5 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all
6 provisions of the Uniform Penalty and Interest Act, as fully as
7 if those provisions were set forth herein.

8 Persons subject to any tax imposed under the authority
9 granted in this subsection may reimburse themselves for their
10 serviceman's tax liability hereunder by separately stating the
11 tax as an additional charge, which charge may be stated in
12 combination, in a single amount, with State tax that servicemen
13 are authorized to collect under the Service Use Tax Act, in
14 accordance with such bracket schedules as the Department may
15 prescribe.

16 Whenever the Department determines that a refund should be
17 made under this subsection to a claimant instead of issuing
18 credit memorandum, the Department shall notify the State
19 Comptroller, who shall cause the order to be drawn for the
20 amount specified, and to the person named, in such notification
21 from the Department. Such refund shall be paid by the State
22 Treasurer out of the business district retailers' occupation
23 tax fund.

24 The Department shall forthwith pay over to the State
25 Treasurer, ex-officio, as trustee, all taxes, penalties, and
26 interest collected under this subsection for deposit into the

1 business district retailers' occupation tax fund. On or before
2 the 25th day of each calendar month, the Department shall
3 prepare and certify to the Comptroller the disbursement of
4 stated sums of money to named municipalities from the business
5 district retailers' occupation tax fund, the municipalities to
6 be those from which suppliers and servicemen have paid taxes or
7 penalties under this subsection to the Department during the
8 second preceding calendar month. The amount to be paid to each
9 municipality shall be the amount (not including credit
10 memoranda) collected under this subsection during the second
11 preceding calendar month by the Department, less 2% of that
12 amount, which shall be deposited into the Tax Compliance and
13 Administration Fund and shall be used by the Department,
14 subject to appropriation, to cover the costs of the Department
15 in administering and enforcing the provisions of this
16 subsection, and not including an amount equal to the amount of
17 refunds made during the second preceding calendar month by the
18 Department on behalf of such municipality. Within 10 days after
19 receipt, by the Comptroller, of the disbursement certification
20 to the municipalities, provided for in this subsection to be
21 given to the Comptroller by the Department, the Comptroller
22 shall cause the orders to be drawn for the respective amounts
23 in accordance with the directions contained in such
24 certification. The proceeds of the tax paid to municipalities
25 under this subsection shall be deposited into the Business
26 District Tax Allocation Fund by the municipality.

1 An ordinance or resolution imposing or discontinuing the
2 tax under this subsection or effecting a change in the rate
3 thereof shall either (i) be adopted and a certified copy
4 thereof filed with the Department on or before the first day of
5 April, whereupon the Department, if all other requirements of
6 this subsection are met, shall proceed to administer and
7 enforce this subsection as of the first day of July next
8 following the adoption and filing; or (ii) be adopted and a
9 certified copy thereof filed with the Department on or before
10 the first day of October, whereupon, if all other conditions of
11 this subsection are met, the Department shall proceed to
12 administer and enforce this subsection as of the first day of
13 January next following the adoption and filing.

14 The Department of Revenue shall not administer or enforce
15 an ordinance imposing, discontinuing, or changing the rate of
16 the tax under this subsection, until the municipality also
17 provides, in the manner prescribed by the Department, the
18 boundaries of the business district and each address in the
19 business district in such a way that the Department can
20 determine by its address whether a business is located in the
21 business district. The municipality must provide this boundary
22 and address information to the Department on or before April 1
23 for administration and enforcement of the tax under this
24 subsection by the Department beginning on the following July 1
25 and on or before October 1 for administration and enforcement
26 of the tax under this subsection by the Department beginning on

1 the following January 1. The Department of Revenue shall not
2 administer or enforce any change made to the boundaries of a
3 business district or any address change, addition, or deletion
4 until the municipality reports the boundary change or address
5 change, addition, or deletion to the Department in the manner
6 prescribed by the Department. The municipality must provide
7 this boundary change information or address change, addition,
8 or deletion to the Department on or before April 1 for
9 administration and enforcement by the Department of the change
10 beginning on the following July 1 and on or before October 1
11 for administration and enforcement by the Department of the
12 change beginning on the following January 1. The retailers in
13 the business district shall be responsible for charging the tax
14 imposed under this subsection. If a retailer is incorrectly
15 included or excluded from the list of those required to collect
16 the tax under this subsection, both the Department of Revenue
17 and the retailer shall be held harmless if they reasonably
18 relied on information provided by the municipality.

19 A municipality that imposes the tax under this subsection
20 must submit to the Department of Revenue any other information
21 as the Department may require for the administration and
22 enforcement of the tax.

23 Nothing in this subsection shall be construed to authorize
24 the municipality to impose a tax upon the privilege of engaging
25 in any business which under the Constitution of the United
26 States may not be made the subject of taxation by the State.

1 If a tax is imposed under this subsection (c), a tax shall
2 also be imposed under subsection (b) of this Section.

3 (d) By ordinance, a municipality that has established a
4 business district under this Division 74.3 may impose an
5 occupation tax upon all persons engaged in the business
6 district in the business of renting, leasing, or letting rooms
7 in a hotel, as defined in the Hotel Operators' Occupation Tax
8 Act, at a rate not to exceed 1% of the gross rental receipts
9 from the renting, leasing, or letting of hotel rooms within the
10 business district, to be imposed only in 0.25% increments,
11 excluding, however, from gross rental receipts the proceeds of
12 renting, leasing, or letting to permanent residents of a hotel,
13 as defined in the Hotel Operators' Occupation Tax Act, and
14 proceeds from the tax imposed under subsection (c) of Section
15 13 of the Metropolitan Pier and Exposition Authority Act.

16 The tax imposed by the municipality under this subsection
17 and all civil penalties that may be assessed as an incident to
18 that tax shall be collected and enforced by the municipality
19 imposing the tax. The municipality shall have full power to
20 administer and enforce this subsection, to collect all taxes
21 and penalties due under this subsection, to dispose of taxes
22 and penalties so collected in the manner provided in this
23 subsection, and to determine all rights to credit memoranda
24 arising on account of the erroneous payment of tax or penalty
25 under this subsection. In the administration of and compliance
26 with this subsection, the municipality and persons who are

1 subject to this subsection shall have the same rights,
2 remedies, privileges, immunities, powers, and duties, shall be
3 subject to the same conditions, restrictions, limitations,
4 penalties, and definitions of terms, and shall employ the same
5 modes of procedure as are employed with respect to a tax
6 adopted by the municipality under Section 8-3-14 of this Code.

7 Persons subject to any tax imposed under the authority
8 granted in this subsection may reimburse themselves for their
9 tax liability for that tax by separately stating that tax as an
10 additional charge, which charge may be stated in combination,
11 in a single amount, with State taxes imposed under the Hotel
12 Operators' Occupation Tax Act, and with any other tax.

13 Nothing in this subsection shall be construed to authorize
14 a municipality to impose a tax upon the privilege of engaging
15 in any business which under the Constitution of the United
16 States may not be made the subject of taxation by this State.

17 The proceeds of the tax imposed under this subsection shall
18 be deposited into the Business District Tax Allocation Fund.

19 (e) Obligations issued pursuant to subsection (14) of
20 Section 11-74.3-3 shall be retired in the manner provided in
21 the ordinance authorizing the issuance of those obligations by
22 the receipts of taxes levied as authorized in subsections (12)
23 and (13) of Section 11-74.3-3. The ordinance shall pledge all
24 of the amounts in and to be deposited in the Business District
25 Tax Allocation Fund to the payment of business district project
26 costs and obligations. Obligations issued pursuant to

1 subsection (14) of Section 11-74.3-3 may be sold at public or
2 private sale at a price determined by the corporate authorities
3 of the municipality and no referendum approval of the electors
4 shall be required as a condition to the issuance of those
5 obligations. The ordinance authorizing the obligations may
6 require that the obligations contain a recital that they are
7 issued pursuant to subsection (14) of Section 11-74.3-3 and
8 this recital shall be conclusive evidence of their validity and
9 of the regularity of their issuance. The corporate authorities
10 of the municipality may also issue its obligations to refund,
11 in whole or in part, obligations previously issued by the
12 municipality under the authority of this Code, whether at or
13 prior to maturity. All obligations issued pursuant to
14 subsection (14) of Section 11-74.3-3 shall not be regarded as
15 indebtedness of the municipality issuing the obligations for
16 the purpose of any limitation imposed by law.

17 (f) When business district costs, including, without
18 limitation, all municipal obligations financing business
19 district project costs incurred under Section 11-74.3-3 have
20 been paid, any surplus funds then remaining in the Business
21 District Tax Allocation Fund shall be distributed to the
22 municipal treasurer for deposit into the municipal general
23 corporate fund. Upon payment of all business district project
24 costs and retirement of obligations, but in no event more than
25 23 years after the date of adoption of the ordinance approving
26 the business district development or redevelopment plan, the

1 municipality shall adopt an ordinance immediately rescinding
2 the taxes imposed pursuant to subsections (12) and (13) of
3 Section 11-74.3-3.

4 (Source: P.A. 93-1053, eff. 1-1-05; 93-1089, eff. 3-7-05.)

5 (65 ILCS 5/8-11-9 rep.)

6 Section 50. The Illinois Municipal Code is amended by
7 repealing Section 8-11-9.

8 Section 55. The Metro-East Park and Recreation District Act
9 is amended by changing Section 30 as follows:

10 (70 ILCS 1605/30)

11 Sec. 30. Taxes.

12 (a) The board shall impose a tax upon all persons engaged
13 in the business of selling tangible personal property, other
14 than personal property titled or registered with an agency of
15 this State's government, at retail in the District on the gross
16 receipts from the sales made in the course of business. This
17 tax shall be imposed only at the rate of one-tenth of one per
18 cent.

19 This additional tax may not be imposed on the sales of food
20 for human consumption that is to be consumed off the premises
21 where it is sold (other than alcoholic beverages, soft drinks,
22 and food which has been prepared for immediate consumption) and
23 prescription and non-prescription medicines, drugs, medical

1 appliances, modifications to a motor vehicle for the purpose of
2 rendering it usable by a disabled person, and insulin, urine
3 testing materials, syringes, and needles used by diabetics. The
4 tax imposed by the Board under this Section and all civil
5 penalties that may be assessed as an incident of the tax shall
6 be collected and enforced by the Department of Revenue. The
7 certificate of registration that is issued by the Department to
8 a retailer under the Retailers' Occupation Tax Act shall permit
9 the retailer to engage in a business that is taxable without
10 registering separately with the Department under an ordinance
11 or resolution under this Section. The Department has full power
12 to administer and enforce this Section, to collect all taxes
13 and penalties due under this Section, to dispose of taxes and
14 penalties so collected in the manner provided in this Section,
15 and to determine all rights to credit memoranda arising on
16 account of the erroneous payment of a tax or penalty under this
17 Section. In the administration of and compliance with this
18 Section, the Department and persons who are subject to this
19 Section shall (i) have the same rights, remedies, privileges,
20 immunities, powers, and duties, (ii) be subject to the same
21 conditions, restrictions, limitations, penalties, and
22 definitions of terms, and (iii) employ the same modes of
23 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
24 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to all
25 provisions contained in those Sections other than the State
26 rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except

1 provisions relating to transaction returns and quarter monthly
2 payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,
3 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
4 Retailers' Occupation Tax Act and the Uniform Penalty and
5 Interest Act as if those provisions were set forth in this
6 Section.

7 Persons subject to any tax imposed under the authority
8 granted in this Section may reimburse themselves for their
9 sellers' tax liability by separately stating the tax as an
10 additional charge, which charge may be stated in combination,
11 in a single amount, with State tax which sellers are required
12 to collect under the Use Tax Act, pursuant to such bracketed
13 schedules as the Department may prescribe.

14 Whenever the Department determines that a refund should be
15 made under this Section to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the order to be drawn for the
18 amount specified and to the person named in the notification
19 from the Department. The refund shall be paid by the State
20 Treasurer out of the State Metro-East Park and Recreation
21 District Fund.

22 (b) If a tax has been imposed under subsection (a), a
23 service occupation tax shall also be imposed at the same rate
24 upon all persons engaged, in the District, in the business of
25 making sales of service, who, as an incident to making those
26 sales of service, transfer tangible personal property within

1 the District as an incident to a sale of service. This tax may
2 not be imposed on sales of food for human consumption that is
3 to be consumed off the premises where it is sold (other than
4 alcoholic beverages, soft drinks, and food prepared for
5 immediate consumption) and prescription and non-prescription
6 medicines, drugs, medical appliances, modifications to a motor
7 vehicle for the purpose of rendering it usable by a disabled
8 person, and insulin, urine testing materials, syringes, and
9 needles used by diabetics. The tax imposed under this
10 subsection and all civil penalties that may be assessed as an
11 incident thereof shall be collected and enforced by the
12 Department of Revenue. The Department has full power to
13 administer and enforce this subsection; to collect all taxes
14 and penalties due hereunder; to dispose of taxes and penalties
15 so collected in the manner hereinafter provided; and to
16 determine all rights to credit memoranda arising on account of
17 the erroneous payment of tax or penalty hereunder. In the
18 administration of, and compliance with this subsection, the
19 Department and persons who are subject to this paragraph shall
20 (i) have the same rights, remedies, privileges, immunities,
21 powers, and duties, (ii) be subject to the same conditions,
22 restrictions, limitations, penalties, exclusions, exemptions,
23 and definitions of terms, and (iii) employ the same modes of
24 procedure as are prescribed in Sections 2 (except that the
25 reference to State in the definition of supplier maintaining a
26 place of business in this State shall mean the District), 2a,

1 2b, 2c, 3 through 3-50 (in respect to all provisions therein
2 other than the State rate of tax), 4 (except that the reference
3 to the State shall be to the District), 5, 7, 8 (except that
4 the jurisdiction to which the tax shall be a debt to the extent
5 indicated in that Section 8 shall be the District), 9 (except
6 as to the disposition of taxes and penalties collected), 10,
7 11, 12 (except the reference therein to Section 2b of the
8 Retailers' Occupation Tax Act), 13 (except that any reference
9 to the State shall mean the District), Sections 15, 16, 17, 18,
10 19 and 20 of the Service Occupation Tax Act and the Uniform
11 Penalty and Interest Act, as fully as if those provisions were
12 set forth herein.

13 Persons subject to any tax imposed under the authority
14 granted in this subsection may reimburse themselves for their
15 serviceman's tax liability by separately stating the tax as an
16 additional charge, which charge may be stated in combination,
17 in a single amount, with State tax that servicemen are
18 authorized to collect under the Service Use Tax Act, in
19 accordance with such bracket schedules as the Department may
20 prescribe.

21 Whenever the Department determines that a refund should be
22 made under this subsection to a claimant instead of issuing a
23 credit memorandum, the Department shall notify the State
24 Comptroller, who shall cause the warrant to be drawn for the
25 amount specified, and to the person named, in the notification
26 from the Department. The refund shall be paid by the State

1 Treasurer out of the State Metro-East Park and Recreation
2 District Fund.

3 Nothing in this subsection shall be construed to authorize
4 the board to impose a tax upon the privilege of engaging in any
5 business which under the Constitution of the United States may
6 not be made the subject of taxation by the State.

7 (c) The Department shall immediately pay over to the State
8 Treasurer, ex officio, as trustee, all taxes and penalties
9 collected under this Section to be deposited into the State
10 Metro-East Park and Recreation District Fund, which shall be an
11 unappropriated trust fund held outside of the State treasury.
12 On or before the 25th day of each calendar month, the
13 Department shall prepare and certify to the Comptroller the
14 disbursement of stated sums of money pursuant to Section 35 of
15 this Act to the District from which retailers have paid taxes
16 or penalties to the Department during the second preceding
17 calendar month. The amount to be paid to the District shall be
18 the amount (not including credit memoranda) collected under
19 this Section during the second preceding calendar month by the
20 Department plus an amount the Department determines is
21 necessary to offset any amounts that were erroneously paid to a
22 different taxing body, and not including (i) an amount equal to
23 the amount of refunds made during the second preceding calendar
24 month by the Department on behalf of the District and (ii) any
25 amount that the Department determines is necessary to offset
26 any amounts that were payable to a different taxing body but

1 were erroneously paid to the District. Within 10 days after
2 receipt by the Comptroller of the disbursement certification to
3 the District provided for in this Section to be given to the
4 Comptroller by the Department, the Comptroller shall cause the
5 orders to be drawn for the respective amounts in accordance
6 with directions contained in the certification.

7 (d) For the purpose of determining whether a tax authorized
8 under this Section is applicable, a retail sale by a producer
9 of coal or another mineral mined in Illinois is a sale at
10 retail at the place where the coal or other mineral mined in
11 Illinois is extracted from the earth. This paragraph does not
12 apply to coal or another mineral when it is delivered or
13 shipped by the seller to the purchaser at a point outside
14 Illinois so that the sale is exempt under the United States
15 Constitution as a sale in interstate or foreign commerce.

16 (e) Nothing in this Section shall be construed to authorize
17 the board to impose a tax upon the privilege of engaging in any
18 business that under the Constitution of the United States may
19 not be made the subject of taxation by this State.

20 (f) An ordinance imposing a tax under this Section or an
21 ordinance extending the imposition of a tax to an additional
22 county or counties shall be certified by the board and filed
23 with the Department of Revenue either (i) on or before the
24 first day of April, whereupon the Department shall proceed to
25 administer and enforce the tax as of the first day of July next
26 following the filing; or (ii) on or before the first day of

1 October, whereupon the Department shall proceed to administer
2 and enforce the tax as of the first day of January next
3 following the filing.

4 (g) When certifying the amount of a monthly disbursement to
5 the District under this Section, the Department shall increase
6 or decrease the amounts by an amount necessary to offset any
7 misallocation of previous disbursements. The offset amount
8 shall be the amount erroneously disbursed within the previous 6
9 months from the time a misallocation is discovered.

10 (Source: P.A. 91-103, eff. 7-13-99.)

11 Section 60. The Regional Transportation Authority Act is
12 amended by changing Section 4.03 as follows:

13 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

14 Sec. 4.03. Taxes.

15 (a) In order to carry out any of the powers or purposes of
16 the Authority, the Board may by ordinance adopted with the
17 concurrence of 9 of the then Directors, impose throughout the
18 metropolitan region any or all of the taxes provided in this
19 Section. Except as otherwise provided in this Act, taxes
20 imposed under this Section and civil penalties imposed incident
21 thereto shall be collected and enforced by the State Department
22 of Revenue. The Department shall have the power to administer
23 and enforce the taxes and to determine all rights for refunds
24 for erroneous payments of the taxes.

1 (b) The Board may impose a public transportation tax upon
2 all persons engaged in the metropolitan region in the business
3 of selling at retail motor fuel for operation of motor vehicles
4 upon public highways. The tax shall be at a rate not to exceed
5 5% of the gross receipts from the sales of motor fuel in the
6 course of the business. As used in this Act, the term "motor
7 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
8 The Board may provide for details of the tax. The provisions of
9 any tax shall conform, as closely as may be practicable, to the
10 provisions of the Municipal Retailers Occupation Tax Act,
11 including without limitation, conformity to penalties with
12 respect to the tax imposed and as to the powers of the State
13 Department of Revenue to promulgate and enforce rules and
14 regulations relating to the administration and enforcement of
15 the provisions of the tax imposed, except that reference in the
16 Act to any municipality shall refer to the Authority and the
17 tax shall be imposed only with regard to receipts from sales of
18 motor fuel in the metropolitan region, at rates as limited by
19 this Section.

20 (c) In connection with the tax imposed under paragraph (b)
21 of this Section the Board may impose a tax upon the privilege
22 of using in the metropolitan region motor fuel for the
23 operation of a motor vehicle upon public highways, the tax to
24 be at a rate not in excess of the rate of tax imposed under
25 paragraph (b) of this Section. The Board may provide for
26 details of the tax.

1 (d) The Board may impose a motor vehicle parking tax upon
2 the privilege of parking motor vehicles at off-street parking
3 facilities in the metropolitan region at which a fee is
4 charged, and may provide for reasonable classifications in and
5 exemptions to the tax, for administration and enforcement
6 thereof and for civil penalties and refunds thereunder and may
7 provide criminal penalties thereunder, the maximum penalties
8 not to exceed the maximum criminal penalties provided in the
9 Retailers' Occupation Tax Act. The Authority may collect and
10 enforce the tax itself or by contract with any unit of local
11 government. The State Department of Revenue shall have no
12 responsibility for the collection and enforcement unless the
13 Department agrees with the Authority to undertake the
14 collection and enforcement. As used in this paragraph, the term
15 "parking facility" means a parking area or structure having
16 parking spaces for more than 2 vehicles at which motor vehicles
17 are permitted to park in return for an hourly, daily, or other
18 periodic fee, whether publicly or privately owned, but does not
19 include parking spaces on a public street, the use of which is
20 regulated by parking meters.

21 (e) The Board may impose a Regional Transportation
22 Authority Retailers' Occupation Tax upon all persons engaged in
23 the business of selling tangible personal property at retail in
24 the metropolitan region. In Cook County the tax rate shall be
25 1% of the gross receipts from sales of food for human
26 consumption that is to be consumed off the premises where it is

1 sold (other than alcoholic beverages, soft drinks and food that
2 has been prepared for immediate consumption) and prescription
3 and nonprescription medicines, drugs, medical appliances,
4 modifications to a motor vehicle for the purpose of rendering
5 it usable by a disabled person, and insulin, urine testing
6 materials, syringes and needles used by diabetics, and 3/4% of
7 the gross receipts from other taxable sales made in the course
8 of that business. In DuPage, Kane, Lake, McHenry, and Will
9 Counties, the tax rate shall be 1/4% of the gross receipts from
10 all taxable sales made in the course of that business. The tax
11 imposed under this Section and all civil penalties that may be
12 assessed as an incident thereof shall be collected and enforced
13 by the State Department of Revenue. The Department shall have
14 full power to administer and enforce this Section; to collect
15 all taxes and penalties so collected in the manner hereinafter
16 provided; and to determine all rights to credit memoranda
17 arising on account of the erroneous payment of tax or penalty
18 hereunder. In the administration of, and compliance with this
19 Section, the Department and persons who are subject to this
20 Section shall have the same rights, remedies, privileges,
21 immunities, powers and duties, and be subject to the same
22 conditions, restrictions, limitations, penalties, exclusions,
23 exemptions and definitions of terms, and employ the same modes
24 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c,
25 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all
26 provisions therein other than the State rate of tax), 2c, 3

1 (except as to the disposition of taxes and penalties
2 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
3 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
4 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
5 Interest Act, as fully as if those provisions were set forth
6 herein.

7 Persons subject to any tax imposed under the authority
8 granted in this Section may reimburse themselves for their
9 seller's tax liability hereunder by separately stating the tax
10 as an additional charge, which charge may be stated in
11 combination in a single amount with State taxes that sellers
12 are required to collect under the Use Tax Act, under any
13 bracket schedules the Department may prescribe.

14 Whenever the Department determines that a refund should be
15 made under this Section to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the warrant to be drawn for the
18 amount specified, and to the person named, in the notification
19 from the Department. The refund shall be paid by the State
20 Treasurer out of the Regional Transportation Authority tax fund
21 established under paragraph (n) of this Section.

22 If a tax is imposed under this subsection (e), a tax shall
23 also be imposed under subsections (f) and (g) of this Section.

24 For the purpose of determining whether a tax authorized
25 under this Section is applicable, a retail sale by a producer
26 of coal or other mineral mined in Illinois, is a sale at retail

1 at the place where the coal or other mineral mined in Illinois
2 is extracted from the earth. This paragraph does not apply to
3 coal or other mineral when it is delivered or shipped by the
4 seller to the purchaser at a point outside Illinois so that the
5 sale is exempt under the Federal Constitution as a sale in
6 interstate or foreign commerce.

7 No tax shall be imposed or collected under this subsection
8 on the sale of a motor vehicle in this State to a resident of
9 another state if that motor vehicle will not be titled in this
10 State.

11 Nothing in this Section shall be construed to authorize the
12 Regional Transportation Authority to impose a tax upon the
13 privilege of engaging in any business that under the
14 Constitution of the United States may not be made the subject
15 of taxation by this State.

16 (f) If a tax has been imposed under paragraph (e), a
17 Regional Transportation Authority Service Occupation Tax shall
18 also be imposed upon all persons engaged, in the metropolitan
19 region in the business of making sales of service, who as an
20 incident to making the sales of service, transfer tangible
21 personal property within the metropolitan region, either in the
22 form of tangible personal property or in the form of real
23 estate as an incident to a sale of service. In Cook County, the
24 tax rate shall be: (1) 1% of the serviceman's cost price of
25 food prepared for immediate consumption and transferred
26 incident to a sale of service subject to the service occupation

1 tax by an entity licensed under the Hospital Licensing Act or
2 the Nursing Home Care Act that is located in the metropolitan
3 region; (2) 1% of the selling price of food for human
4 consumption that is to be consumed off the premises where it is
5 sold (other than alcoholic beverages, soft drinks and food that
6 has been prepared for immediate consumption) and prescription
7 and nonprescription medicines, drugs, medical appliances,
8 modifications to a motor vehicle for the purpose of rendering
9 it usable by a disabled person, and insulin, urine testing
10 materials, syringes and needles used by diabetics; and (3) 3/4%
11 of the selling price from other taxable sales of tangible
12 personal property transferred. In DuPage, Kane, Lake, McHenry
13 and Will Counties the rate shall be 1/4% of the selling price
14 of all tangible personal property transferred.

15 The tax imposed under this paragraph and all civil
16 penalties that may be assessed as an incident thereof shall be
17 collected and enforced by the State Department of Revenue. The
18 Department shall have full power to administer and enforce this
19 paragraph; to collect all taxes and penalties due hereunder; to
20 dispose of taxes and penalties collected in the manner
21 hereinafter provided; and to determine all rights to credit
22 memoranda arising on account of the erroneous payment of tax or
23 penalty hereunder. In the administration of and compliance with
24 this paragraph, the Department and persons who are subject to
25 this paragraph shall have the same rights, remedies,
26 privileges, immunities, powers and duties, and be subject to

1 the same conditions, restrictions, limitations, penalties,
2 exclusions, exemptions and definitions of terms, and employ the
3 same modes of procedure, as are prescribed in Sections 1a-1, 2,
4 2a, 3 through 3-50 (in respect to all provisions therein other
5 than the State rate of tax), 4 (except that the reference to
6 the State shall be to the Authority), 5, 7, 8 (except that the
7 jurisdiction to which the tax shall be a debt to the extent
8 indicated in that Section 8 shall be the Authority), 9 (except
9 as to the disposition of taxes and penalties collected, and
10 except that the returned merchandise credit for this tax may
11 not be taken against any State tax), 10, 11, 12 (except the
12 reference therein to Section 2b of the Retailers' Occupation
13 Tax Act), 13 (except that any reference to the State shall mean
14 the Authority), the first paragraph of Section 15, 16, 17, 18,
15 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
16 the Uniform Penalty and Interest Act, as fully as if those
17 provisions were set forth herein.

18 Persons subject to any tax imposed under the authority
19 granted in this paragraph may reimburse themselves for their
20 serviceman's tax liability hereunder by separately stating the
21 tax as an additional charge, that charge may be stated in
22 combination in a single amount with State tax that servicemen
23 are authorized to collect under the Service Use Tax Act, under
24 any bracket schedules the Department may prescribe.

25 Whenever the Department determines that a refund should be
26 made under this paragraph to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State
2 Comptroller, who shall cause the warrant to be drawn for the
3 amount specified, and to the person named in the notification
4 from the Department. The refund shall be paid by the State
5 Treasurer out of the Regional Transportation Authority tax fund
6 established under paragraph (n) of this Section.

7 Nothing in this paragraph shall be construed to authorize
8 the Authority to impose a tax upon the privilege of engaging in
9 any business that under the Constitution of the United States
10 may not be made the subject of taxation by the State.

11 (g) If a tax has been imposed under paragraph (e), a tax
12 shall also be imposed upon the privilege of using in the
13 metropolitan region, any item of tangible personal property
14 that is purchased outside the metropolitan region at retail
15 from a retailer, and that is titled or registered with an
16 agency of this State's government. In Cook County the tax rate
17 shall be 3/4% of the selling price of the tangible personal
18 property, as "selling price" is defined in the Use Tax Act. In
19 DuPage, Kane, Lake, McHenry and Will counties the tax rate
20 shall be 1/4% of the selling price of the tangible personal
21 property, as "selling price" is defined in the Use Tax Act. The
22 tax shall be collected from persons whose Illinois address for
23 titling or registration purposes is given as being in the
24 metropolitan region. The tax shall be collected by the
25 Department of Revenue for the Regional Transportation
26 Authority. The tax must be paid to the State, or an exemption

1 determination must be obtained from the Department of Revenue,
2 before the title or certificate of registration for the
3 property may be issued. The tax or proof of exemption may be
4 transmitted to the Department by way of the State agency with
5 which, or the State officer with whom, the tangible personal
6 property must be titled or registered if the Department and the
7 State agency or State officer determine that this procedure
8 will expedite the processing of applications for title or
9 registration.

10 The Department shall have full power to administer and
11 enforce this paragraph; to collect all taxes, penalties and
12 interest due hereunder; to dispose of taxes, penalties and
13 interest collected in the manner hereinafter provided; and to
14 determine all rights to credit memoranda or refunds arising on
15 account of the erroneous payment of tax, penalty or interest
16 hereunder. In the administration of and compliance with this
17 paragraph, the Department and persons who are subject to this
18 paragraph shall have the same rights, remedies, privileges,
19 immunities, powers and duties, and be subject to the same
20 conditions, restrictions, limitations, penalties, exclusions,
21 exemptions and definitions of terms and employ the same modes
22 of procedure, as are prescribed in Sections 2 (except the
23 definition of "retailer maintaining a place of business in this
24 State"), 3 through 3-80 (except provisions pertaining to the
25 State rate of tax, and except provisions concerning collection
26 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,

1 19 (except the portions pertaining to claims by retailers and
2 except the last paragraph concerning refunds), 20, 21 and 22 of
3 the Use Tax Act, and are not inconsistent with this paragraph,
4 as fully as if those provisions were set forth herein.

5 Whenever the Department determines that a refund should be
6 made under this paragraph to a claimant instead of issuing a
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the order to be drawn for the
9 amount specified, and to the person named in the notification
10 from the Department. The refund shall be paid by the State
11 Treasurer out of the Regional Transportation Authority tax fund
12 established under paragraph (n) of this Section.

13 (h) (Blank). ~~The Authority may impose a replacement vehicle~~
14 ~~tax of \$50 on any passenger car as defined in Section 1-157 of~~
15 ~~the Illinois Vehicle Code purchased within the metropolitan~~
16 ~~region by or on behalf of an insurance company to replace a~~
17 ~~passenger car of an insured person in settlement of a total~~
18 ~~loss claim. The tax imposed may not become effective before the~~
19 ~~first day of the month following the passage of the ordinance~~
20 ~~imposing the tax and receipt of a certified copy of the~~
21 ~~ordinance by the Department of Revenue. The Department of~~
22 ~~Revenue shall collect the tax for the Authority in accordance~~
23 ~~with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.~~

24 ~~The Department shall immediately pay over to the State~~
25 ~~Treasurer, ex officio, as trustee, all taxes collected~~
26 ~~hereunder. On or before the 25th day of each calendar month,~~

1 ~~the Department shall prepare and certify to the Comptroller the~~
2 ~~disbursement of stated sums of money to the Authority. The~~
3 ~~amount to be paid to the Authority shall be the amount~~
4 ~~collected hereunder during the second preceding calendar month~~
5 ~~by the Department, less any amount determined by the Department~~
6 ~~to be necessary for the payment of refunds. Within 10 days~~
7 ~~after receipt by the Comptroller of the disbursement~~
8 ~~certification to the Authority provided for in this Section to~~
9 ~~be given to the Comptroller by the Department, the Comptroller~~
10 ~~shall cause the orders to be drawn for that amount in~~
11 ~~accordance with the directions contained in the certification.~~

12 (i) The Board may not impose any other taxes except as it
13 may from time to time be authorized by law to impose.

14 (j) A certificate of registration issued by the State
15 Department of Revenue to a retailer under the Retailers'
16 Occupation Tax Act or under the Service Occupation Tax Act
17 shall permit the registrant to engage in a business that is
18 taxed under the tax imposed under paragraphs (b), (e), (f) or
19 (g) of this Section and no additional registration shall be
20 required under the tax. A certificate issued under the Use Tax
21 Act or the Service Use Tax Act shall be applicable with regard
22 to any tax imposed under paragraph (c) of this Section.

23 (k) The provisions of any tax imposed under paragraph (c)
24 of this Section shall conform as closely as may be practicable
25 to the provisions of the Use Tax Act, including without
26 limitation conformity as to penalties with respect to the tax

1 imposed and as to the powers of the State Department of Revenue
2 to promulgate and enforce rules and regulations relating to the
3 administration and enforcement of the provisions of the tax
4 imposed. The taxes shall be imposed only on use within the
5 metropolitan region and at rates as provided in the paragraph.

6 (l) The Board in imposing any tax as provided in paragraphs
7 (b) and (c) of this Section, shall, after seeking the advice of
8 the State Department of Revenue, provide means for retailers,
9 users or purchasers of motor fuel for purposes other than those
10 with regard to which the taxes may be imposed as provided in
11 those paragraphs to receive refunds of taxes improperly paid,
12 which provisions may be at variance with the refund provisions
13 as applicable under the Municipal Retailers Occupation Tax Act.
14 The State Department of Revenue may provide for certificates of
15 registration for users or purchasers of motor fuel for purposes
16 other than those with regard to which taxes may be imposed as
17 provided in paragraphs (b) and (c) of this Section to
18 facilitate the reporting and nontaxability of the exempt sales
19 or uses.

20 (m) Any ordinance imposing or discontinuing any tax under
21 this Section shall be adopted and a certified copy thereof
22 filed with the Department on or before June 1, whereupon the
23 Department of Revenue shall proceed to administer and enforce
24 this Section on behalf of the Regional Transportation Authority
25 as of September 1 next following such adoption and filing.
26 Beginning January 1, 1992, an ordinance or resolution imposing

1 or discontinuing the tax hereunder shall be adopted and a
2 certified copy thereof filed with the Department on or before
3 the first day of July, whereupon the Department shall proceed
4 to administer and enforce this Section as of the first day of
5 October next following such adoption and filing. Beginning
6 January 1, 1993, an ordinance or resolution imposing or
7 discontinuing the tax hereunder shall be adopted and a
8 certified copy thereof filed with the Department on or before
9 the first day of October, whereupon the Department shall
10 proceed to administer and enforce this Section as of the first
11 day of January next following such adoption and filing.

12 (n) The State Department of Revenue shall, upon collecting
13 any taxes as provided in this Section, pay the taxes over to
14 the State Treasurer as trustee for the Authority. The taxes
15 shall be held in a trust fund outside the State Treasury. On or
16 before the 25th day of each calendar month, the State
17 Department of Revenue shall prepare and certify to the
18 Comptroller of the State of Illinois the amount to be paid to
19 the Authority, which shall be the then balance in the fund,
20 less any amount determined by the Department to be necessary
21 for the payment of refunds. The State Department of Revenue
22 shall also certify to the Authority the amount of taxes
23 collected in each County other than Cook County in the
24 metropolitan region less the amount necessary for the payment
25 of refunds to taxpayers in the County. With regard to the
26 County of Cook, the certification shall specify the amount of

1 taxes collected within the City of Chicago less the amount
2 necessary for the payment of refunds to taxpayers in the City
3 of Chicago and the amount collected in that portion of Cook
4 County outside of Chicago less the amount necessary for the
5 payment of refunds to taxpayers in that portion of Cook County
6 outside of Chicago. Within 10 days after receipt by the
7 Comptroller of the certification of the amount to be paid to
8 the Authority, the Comptroller shall cause an order to be drawn
9 for the payment for the amount in accordance with the direction
10 in the certification.

11 In addition to the disbursement required by the preceding
12 paragraph, an allocation shall be made in July 1991 and each
13 year thereafter to the Regional Transportation Authority. The
14 allocation shall be made in an amount equal to the average
15 monthly distribution during the preceding calendar year
16 (excluding the 2 months of lowest receipts) and the allocation
17 shall include the amount of average monthly distribution from
18 the Regional Transportation Authority Occupation and Use Tax
19 Replacement Fund. The distribution made in July 1992 and each
20 year thereafter under this paragraph and the preceding
21 paragraph shall be reduced by the amount allocated and
22 disbursed under this paragraph in the preceding calendar year.
23 The Department of Revenue shall prepare and certify to the
24 Comptroller for disbursement the allocations made in
25 accordance with this paragraph.

26 (o) Failure to adopt a budget ordinance or otherwise to

1 comply with Section 4.01 of this Act or to adopt a Five-year
2 Program or otherwise to comply with paragraph (b) of Section
3 2.01 of this Act shall not affect the validity of any tax
4 imposed by the Authority otherwise in conformity with law.

5 (p) At no time shall a public transportation tax or motor
6 vehicle parking tax authorized under paragraphs (b), (c) and
7 (d) of this Section be in effect at the same time as any
8 retailers' occupation, use or service occupation tax
9 authorized under paragraphs (e), (f) and (g) of this Section is
10 in effect.

11 Any taxes imposed under the authority provided in
12 paragraphs (b), (c) and (d) shall remain in effect only until
13 the time as any tax authorized by paragraphs (e), (f) or (g) of
14 this Section are imposed and becomes effective. Once any tax
15 authorized by paragraphs (e), (f) or (g) is imposed the Board
16 may not reimpose taxes as authorized in paragraphs (b), (c) and
17 (d) of the Section unless any tax authorized by paragraphs (e),
18 (f) or (g) of this Section becomes ineffective by means other
19 than an ordinance of the Board.

20 (q) Any existing rights, remedies and obligations
21 (including enforcement by the Regional Transportation
22 Authority) arising under any tax imposed under paragraphs (b),
23 (c) or (d) of this Section shall not be affected by the
24 imposition of a tax under paragraphs (e), (f) or (g) of this
25 Section.

26 (Source: P.A. 92-221, eff. 8-2-01; 92-651, eff. 7-11-02;

1 93-1068, eff. 1-15-05.)

2 Section 65. The Water Commission Act of 1985 is amended by
3 changing Section 4 as follows:

4 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

5 Sec. 4. (a) The board of commissioners of any county water
6 commission may, by ordinance, impose throughout the territory
7 of the commission any or all of the taxes provided in this
8 Section for its corporate purposes. However, no county water
9 commission may impose any such tax unless the commission
10 certifies the proposition of imposing the tax to the proper
11 election officials, who shall submit the proposition to the
12 voters residing in the territory at an election in accordance
13 with the general election law, and the proposition has been
14 approved by a majority of those voting on the proposition.

15 The proposition shall be in the form provided in Section 5
16 or shall be substantially in the following form:

17 -----

18	Shall the (insert corporate	
19	name of county water commission)	YES
20	impose (state type of tax or	-----
21	taxes to be imposed) at the	NO
22	rate of 1/4%?	

23 -----

24 Taxes imposed under this Section and civil penalties

1 imposed incident thereto shall be collected and enforced by the
2 State Department of Revenue. The Department shall have the
3 power to administer and enforce the taxes and to determine all
4 rights for refunds for erroneous payments of the taxes.

5 (b) The board of commissioners may impose a County Water
6 Commission Retailers' Occupation Tax upon all persons engaged
7 in the business of selling tangible personal property at retail
8 in the territory of the commission at a rate of 1/4% of the
9 gross receipts from the sales made in the course of such
10 business within the territory. The tax imposed under this
11 paragraph and all civil penalties that may be assessed as an
12 incident thereof shall be collected and enforced by the State
13 Department of Revenue. The Department shall have full power to
14 administer and enforce this paragraph; to collect all taxes and
15 penalties due hereunder; to dispose of taxes and penalties so
16 collected in the manner hereinafter provided; and to determine
17 all rights to credit memoranda arising on account of the
18 erroneous payment of tax or penalty hereunder. In the
19 administration of, and compliance with, this paragraph, the
20 Department and persons who are subject to this paragraph shall
21 have the same rights, remedies, privileges, immunities, powers
22 and duties, and be subject to the same conditions,
23 restrictions, limitations, penalties, exclusions, exemptions
24 and definitions of terms, and employ the same modes of
25 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
26 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions

1 therein other than the State rate of tax except that food for
2 human consumption that is to be consumed off the premises where
3 it is sold (other than alcoholic beverages, soft drinks, and
4 food that has been prepared for immediate consumption) and
5 prescription and nonprescription medicine, drugs, medical
6 appliances, modifications to a motor vehicle for the purpose of
7 rendering it usable by a disabled person, and insulin, urine
8 testing materials, syringes, and needles used by diabetics, for
9 human use, shall not be subject to tax hereunder), 2c, 3
10 (except as to the disposition of taxes and penalties
11 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
12 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
13 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
14 Interest Act, as fully as if those provisions were set forth
15 herein.

16 Persons subject to any tax imposed under the authority
17 granted in this paragraph may reimburse themselves for their
18 seller's tax liability hereunder by separately stating the tax
19 as an additional charge, which charge may be stated in
20 combination, in a single amount, with State taxes that sellers
21 are required to collect under the Use Tax Act and under
22 subsection (e) of Section 4.03 of the Regional Transportation
23 Authority Act, in accordance with such bracket schedules as the
24 Department may prescribe.

25 Whenever the Department determines that a refund should be
26 made under this paragraph to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State
2 Comptroller, who shall cause the warrant to be drawn for the
3 amount specified, and to the person named, in the notification
4 from the Department. The refund shall be paid by the State
5 Treasurer out of a county water commission tax fund established
6 under paragraph (g) of this Section.

7 For the purpose of determining whether a tax authorized
8 under this paragraph is applicable, a retail sale by a producer
9 of coal or other mineral mined in Illinois is a sale at retail
10 at the place where the coal or other mineral mined in Illinois
11 is extracted from the earth. This paragraph does not apply to
12 coal or other mineral when it is delivered or shipped by the
13 seller to the purchaser at a point outside Illinois so that the
14 sale is exempt under the Federal Constitution as a sale in
15 interstate or foreign commerce.

16 If a tax is imposed under this subsection (b) a tax shall
17 also be imposed under subsections (c) and (d) of this Section.

18 No tax shall be imposed or collected under this subsection
19 on the sale of a motor vehicle in this State to a resident of
20 another state if that motor vehicle will not be titled in this
21 State.

22 Nothing in this paragraph shall be construed to authorize a
23 county water commission to impose a tax upon the privilege of
24 engaging in any business which under the Constitution of the
25 United States may not be made the subject of taxation by this
26 State.

1 (c) If a tax has been imposed under subsection (b), a
2 County Water Commission Service Occupation Tax shall also be
3 imposed upon all persons engaged, in the territory of the
4 commission, in the business of making sales of service, who, as
5 an incident to making the sales of service, transfer tangible
6 personal property within the territory. The tax rate shall be
7 1/4% of the selling price of tangible personal property so
8 transferred within the territory. The tax imposed under this
9 paragraph and all civil penalties that may be assessed as an
10 incident thereof shall be collected and enforced by the State
11 Department of Revenue. The Department shall have full power to
12 administer and enforce this paragraph; to collect all taxes and
13 penalties due hereunder; to dispose of taxes and penalties so
14 collected in the manner hereinafter provided; and to determine
15 all rights to credit memoranda arising on account of the
16 erroneous payment of tax or penalty hereunder. In the
17 administration of, and compliance with, this paragraph, the
18 Department and persons who are subject to this paragraph shall
19 have the same rights, remedies, privileges, immunities, powers
20 and duties, and be subject to the same conditions,
21 restrictions, limitations, penalties, exclusions, exemptions
22 and definitions of terms, and employ the same modes of
23 procedure, as are prescribed in Sections 1a-1, 2 (except that
24 the reference to State in the definition of supplier
25 maintaining a place of business in this State shall mean the
26 territory of the commission), 2a, 3 through 3-50 (in respect to

1 all provisions therein other than the State rate of tax except
2 that food for human consumption that is to be consumed off the
3 premises where it is sold (other than alcoholic beverages, soft
4 drinks, and food that has been prepared for immediate
5 consumption) and prescription and nonprescription medicines,
6 drugs, medical appliances, modifications to a motor vehicle for
7 the purpose of rendering it usable by a disabled person, and
8 insulin, urine testing materials, syringes, and needles used by
9 diabetics, for human use, shall not be subject to tax
10 hereunder), 4 (except that the reference to the State shall be
11 to the territory of the commission), 5, 7, 8 (except that the
12 jurisdiction to which the tax shall be a debt to the extent
13 indicated in that Section 8 shall be the commission), 9 (except
14 as to the disposition of taxes and penalties collected and
15 except that the returned merchandise credit for this tax may
16 not be taken against any State tax), 10, 11, 12 (except the
17 reference therein to Section 2b of the Retailers' Occupation
18 Tax Act), 13 (except that any reference to the State shall mean
19 the territory of the commission), the first paragraph of
20 Section 15, 15.5, 16, 17, 18, 19 and 20 of the Service
21 Occupation Tax Act as fully as if those provisions were set
22 forth herein.

23 Persons subject to any tax imposed under the authority
24 granted in this paragraph may reimburse themselves for their
25 serviceman's tax liability hereunder by separately stating the
26 tax as an additional charge, which charge may be stated in

1 combination, in a single amount, with State tax that servicemen
2 are authorized to collect under the Service Use Tax Act, and
3 any tax for which servicemen may be liable under subsection (f)
4 of Sec. 4.03 of the Regional Transportation Authority Act, in
5 accordance with such bracket schedules as the Department may
6 prescribe.

7 Whenever the Department determines that a refund should be
8 made under this paragraph to a claimant instead of issuing a
9 credit memorandum, the Department shall notify the State
10 Comptroller, who shall cause the warrant to be drawn for the
11 amount specified, and to the person named, in the notification
12 from the Department. The refund shall be paid by the State
13 Treasurer out of a county water commission tax fund established
14 under paragraph (g) of this Section.

15 Nothing in this paragraph shall be construed to authorize a
16 county water commission to impose a tax upon the privilege of
17 engaging in any business which under the Constitution of the
18 United States may not be made the subject of taxation by the
19 State.

20 (d) If a tax has been imposed under subsection (b), a tax
21 shall also imposed upon the privilege of using, in the
22 territory of the commission, any item of tangible personal
23 property that is purchased outside the territory at retail from
24 a retailer, and that is titled or registered with an agency of
25 this State's government, at a rate of 1/4% of the selling price
26 of the tangible personal property within the territory, as

1 "selling price" is defined in the Use Tax Act. The tax shall be
2 collected from persons whose Illinois address for titling or
3 registration purposes is given as being in the territory. The
4 tax shall be collected by the Department of Revenue for a
5 county water commission. The tax must be paid to the State, or
6 an exemption determination must be obtained from the Department
7 of Revenue, before the title or certificate of registration for
8 the property may be issued. The tax or proof of exemption may
9 be transmitted to the Department by way of the State agency
10 with which, or the State officer with whom, the tangible
11 personal property must be titled or registered if the
12 Department and the State agency or State officer determine that
13 this procedure will expedite the processing of applications for
14 title or registration.

15 The Department shall have full power to administer and
16 enforce this paragraph; to collect all taxes, penalties and
17 interest due hereunder; to dispose of taxes, penalties and
18 interest so collected in the manner hereinafter provided; and
19 to determine all rights to credit memoranda or refunds arising
20 on account of the erroneous payment of tax, penalty or interest
21 hereunder. In the administration of, and compliance with this
22 paragraph, the Department and persons who are subject to this
23 paragraph shall have the same rights, remedies, privileges,
24 immunities, powers and duties, and be subject to the same
25 conditions, restrictions, limitations, penalties, exclusions,
26 exemptions and definitions of terms and employ the same modes

1 of procedure, as are prescribed in Sections 2 (except the
2 definition of "retailer maintaining a place of business in this
3 State"), 3 through 3-80 (except provisions pertaining to the
4 State rate of tax, and except provisions concerning collection
5 or refunding of the tax by retailers, and except that food for
6 human consumption that is to be consumed off the premises where
7 it is sold (other than alcoholic beverages, soft drinks, and
8 food that has been prepared for immediate consumption) and
9 prescription and nonprescription medicines, drugs, medical
10 appliances, modifications to a motor vehicle for the purpose of
11 rendering it usable by a disabled person, and insulin, urine
12 testing materials, syringes, and needles used by diabetics, for
13 human use, shall not be subject to tax hereunder), 4, 11, 12,
14 12a, 14, 15, 19 (except the portions pertaining to claims by
15 retailers and except the last paragraph concerning refunds),
16 20, 21 and 22 of the Use Tax Act and Section 3-7 of the Uniform
17 Penalty and Interest Act that are not inconsistent with this
18 paragraph, as fully as if those provisions were set forth
19 herein.

20 Whenever the Department determines that a refund should be
21 made under this paragraph to a claimant instead of issuing a
22 credit memorandum, the Department shall notify the State
23 Comptroller, who shall cause the order to be drawn for the
24 amount specified, and to the person named, in the notification
25 from the Department. The refund shall be paid by the State
26 Treasurer out of a county water commission tax fund established

1 under paragraph (g) of this Section.

2 (e) A certificate of registration issued by the State
3 Department of Revenue to a retailer under the Retailers'
4 Occupation Tax Act or under the Service Occupation Tax Act
5 shall permit the registrant to engage in a business that is
6 taxed under the tax imposed under paragraphs (b), (c) or (d) of
7 this Section and no additional registration shall be required
8 under the tax. A certificate issued under the Use Tax Act or
9 the Service Use Tax Act shall be applicable with regard to any
10 tax imposed under paragraph (c) of this Section.

11 (f) Any ordinance imposing or discontinuing any tax under
12 this Section shall be adopted and a certified copy thereof
13 filed with the Department on or before June 1, whereupon the
14 Department of Revenue shall proceed to administer and enforce
15 this Section on behalf of the county water commission as of
16 September 1 next following the adoption and filing. Beginning
17 January 1, 1992, an ordinance or resolution imposing or
18 discontinuing the tax hereunder shall be adopted and a
19 certified copy thereof filed with the Department on or before
20 the first day of July, whereupon the Department shall proceed
21 to administer and enforce this Section as of the first day of
22 October next following such adoption and filing. Beginning
23 January 1, 1993, an ordinance or resolution imposing or
24 discontinuing the tax hereunder shall be adopted and a
25 certified copy thereof filed with the Department on or before
26 the first day of October, whereupon the Department shall

1 proceed to administer and enforce this Section as of the first
2 day of January next following such adoption and filing.

3 (g) The State Department of Revenue shall, upon collecting
4 any taxes as provided in this Section, pay the taxes over to
5 the State Treasurer as trustee for the commission. The taxes
6 shall be held in a trust fund outside the State Treasury. On or
7 before the 25th day of each calendar month, the State
8 Department of Revenue shall prepare and certify to the
9 Comptroller of the State of Illinois the amount to be paid to
10 the commission, which shall be the then balance in the fund,
11 less any amount determined by the Department to be necessary
12 for the payment of refunds. Within 10 days after receipt by the
13 Comptroller of the certification of the amount to be paid to
14 the commission, the Comptroller shall cause an order to be
15 drawn for the payment for the amount in accordance with the
16 direction in the certification.

17 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.

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8	35 ILCS 5/203	from Ch. 120, par. 2-203
9	35 ILCS 5/204	from Ch. 120, par. 2-204
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13	35 ILCS 5/502	from Ch. 120, par. 5-502
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21	35 ILCS 5/909	from Ch. 120, par. 9-909
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